Volume XXXVI] *December, 1921* [*Number 4*

POLITICAL SCIENCE QUARTERLY

THE CLIMAX OF ANTI-IMPERIALISM IN ENGLAND

No nation ever voluntarily gave up the dominion of any province, how troublesome soever it might be to govern it, and how small soever the revenue which it afforded might be in proportion to the expense which it occasioned. Such sacrifices, though they might frequently be agreeable to the interests, are always mortifying to the pride of every nation; and, what is perhaps of still greater consequence, they are always contrary to the private interest of the governing part of it, who would thereby be deprived of the disposal of many places of trust and profit, of many opportunities of acquiring wealth and distinction, which the possession of the most turbulent, and, to the great body of the people, the most unprofitable province, seldom fails to afford.[1]

Adam Smith could not foresee when he wrote these words that the time would come when, thanks in great part to the general acceptance of his own teaching, many of the leading statesmen of England and the officials most closely concerned with colonial administration would contemplate the break-up of the British Empire with feelings ranging from resignation to pleasure.

The old British colonial system, it is well-known, was essentially commercial; it was part and parcel of the mercantile system. The colonies were valued on account of the advantages supposed to be derived from the monopoly of their commerce. They never yielded the mother country a revenue or military forces for her defense, but on the contrary, they imposed heavy financial burdens upon her. It is not strange, therefore, that when free trade swept away the restrictions on colonial commerce, Englishmen complained of the encumbrances of

[1] Adam Smith: *The Wealth of Nations*, Book IV, chap. vii.

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empire or that some of them advocated openly the independence of the colonies. At a time when it was the habit to regard imperial dominion as a scheme of commercial monopoly it was difficult to justify heavy expenditure on colonies that were free to trade where they pleased, and when these colonies began to impose protective duties on the produce of the mother country the quintessence of anomaly seemed to have been attained.[1]

The same era that witnessed the removal of the old restrictions on colonial trade saw the establishment of responsible government in the North American and Australasian colonies, and there were many who regarded this as the prelude to their independence. Lord John Russell declared in 1837 that responsible government in the colonies would be incompatible with the maintenance of imperial authority over them,[2] and though he changed his mind subsequently not all of his countrymen kept pace with him. The assumed tendency of colonies to separate from their mother country was often elevated to the dignity of a natural law which could not be controlled by the will of man. Some even of those who were called colonial reformers looked upon reform as preliminary to emancipation.[3]

The decade 1861–70 may fairly be called a critical period in British imperial history, for it was during those years that tendencies in England toward the disruption of the Empire reached their climax. The doctrines of the Manchester School were at the height of their influence. Free trade, having justified itself by its fruits, had been accepted by all parties as the settled

[1] By 1860 the last vestiges of the commercial restrictions of the colonial system had been swept away; in 1859 Canada laid protective duties on imports from Great Britain, and her example was soon followed by other colonies.

[2] Hansard: *Parliamentary Debates*, 3rd Series, XXXVII, 1249.

[3] Some impression of the extent of anti-imperial sentiment in the middle of the nineteenth century can be gained from Hansard, 3rd Series, CVIII, 545; Earl Grey, *The Colonial Policy of Lord John Russell's Administration*, I, Letter I; Carlyle, *Latter Day Pamphlets*, No. 4; Roebuck, J. A., *The Colonies of England;* Bell, Sydney S., *Colonial Administration of Great Britain*, pp. 393, 396, 431 *et seq.;* W. S. Childs-Pemberton, *Life of Lord Norton*, pp. 3, 80; Adams, G. B., "Origin and Results of the Imperial Federation Movement in England," in *Proceedings of the Historical Society of Wisconsin*, 1898, pp. 93–116.

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policy of the nation, and the Anglo-French Commercial Treaty of 1860 was taken to herald it as the future policy of all nations. Prosperity, peace and progress were about to supplant the unholy trinity of protectionism, militarism and imperialism. So at least it seemed, for untoward events had not yet shown this faith of Manchester to be unwarranted. Were free-trade principles to be followed to the limit of logic; was the Empire to be dissolved? There was much to indicate that the answer to this question would be in the affirmative. This subject has, however, received little or no notice in the standard histories of England or in the biographies of the leading British statesmen of the day. Perhaps this is not to be wondered at, since the insularism of English historians, against which Seeley lodged a memorable protest a generation ago, has been only slightly modified since his day, and the revival of imperialism in England during the last fifty years has no doubt predisposed Englishmen, as historians, against dwelling upon what, as citizens, they would prefer to forget. Sometimes when an English historian does vouchsafe to touch upon the anti-imperial sentiment of the mid-Victorian era the reader gets the impression that a regrettable episode is being glossed over.

Probably the foremost advocate of the dismemberment of the Empire was Goldwin Smith. While Regius Professor of Modern History at Oxford, he wrote a series of letters that appeared in *The Daily News* in 1862 and 1863 and were published in the latter year in a volume entitled *The Empire*. He pointed out that conditions were very different from what they had been when the old colonial system was established. "The time was", he said, "when the universal prevalence of commercial monopoly made it well worth our while to hold colonies in dependence for the sake of commanding their trade. But that time has gone. Trade is everywhere free, or becoming free; and this expensive and perilous connection has entirely survived its sole legitimate cause. It is time that we should recognize the change that has come over the world". Every hour that an adult colony was kept in a state of dependence, an injury was done to its political character. If Canada was unable to stand by itself, it must eventually join with the United

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States. As things were, Great Britain's dominion there kept her constantly on the brink of war with the American Republic. The West Indies had become "a mere burden". The case of India was different; there England had assumed responsibilities which she must discharge if possible, but if she could not transform India from a dependency into a colony by settling there as a governing and civilizing class, the days of her rule were numbered. Even military dependencies like Gibraltar had been rendered to a great extent unnecessary by the triumph of free trade. There was no longer any need for the British to post themselves all over the globe in order to make way for their commerce; trade had become its own protection. British policy had of late become favorable to colonial self-government, "and, therefore, theoretically favorable to emancipation", but it would be difficult for statesmen to take the decisive step of freeing a colony unless urged on by public opinion. Like other anti-imperialists of the day, Goldwin Smith hoped that the independence of the colonies would be achieved peacefully, without the rancor and animosity that had accompanied the separation of the United States from the Empire and survived to mar Anglo-American relations for a hundred years. He believed that what was best in the colonial relationship—the ties of blood, sympathy and ideas—would not be affected by political separation, and he looked forward to the time when, the colonies having become independent nations, something in the nature of an Anglo-Saxon Federation might develop spontaneously out of "affinity and natural affection".

Goldwin Smith's letters provoked a debate in the press and attracted attention not only in England but throughout the Empire. The London *Times* poured ridicule upon his ideas by comparing them with "projects for general disarmament or for equalizing the political rights of the sexes".[1] Disraeli alluded to him in a contemptuous reference which he made in the House of Commons to "prigs and pedants".[2] He was referred to as the apostle of anti-imperialism, and the dissolution of the

[1] *The Times*, February 4, 1862.

[2] Hansard, 3rd Series, CLXIX, 96.

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Empire came to be spoken of as his "colonial policy".[1] The colonial press in general, and especially that of Australia, was bitterly hostile to his proposals.[2] In his *Reminiscences* published in 1911 Goldwin Smith wrote of his *Daily News* letters: "The whole series was Anti-Imperialist, advocating the concession of independence to adult Colonies so that England might become indeed the mother of free nations".[3] Though his doctrines were submerged in the tide of imperialism that began to flow in the early seventies, he himself seems never to have wavered in his opinions.[4]

In 1865 Henry (afterwards Lord) Thring published a pamphlet entitled *Suggestions for Colonial Reform*, in which he urged that the independence of the colonies ought to be looked forward to and prepared for as the natural termination of a temporary connection. His views are not to be regarded as those of a visionary, remote from the realities of practical politics. He was at the time Home Office Counsel, and as such was called upon to draft all important Government measures; probably no man knew more of the inner history of parliamentary legislation than he.[5] For years he had taken an interest in colonial questions, and in 1850 had prepared a plan of colonial reform for Sir William Molesworth, which the latter introduced into Parliament as a series of amendments to a bill for the government of New South Wales.[6] In the tract of 1865 Thring proposed a comprehensive scheme defining the relations between the mother country and the colonies at every stage of their existence. It included rules regulating the conditions on which adventurers might settle in unoccupied terri-

[1] Hansard, 3rd Series, CC, 1818; *Spectator*, XLII, p. 868; *Proceedings of the Royal Colonial Institute*, VI, p. 37; *Fraser's Magazine* September, 1871, p. 396; *The Morning Post*, March 16, 1869, p. 8.

[2] Bowen, Sir G. F., *Thirty Years of Colonial Government*, I, p. 209.

[3] P. 168.

[4] *Reminiscences*, p. 169; also articles in *Macmillan's Magazine*, March, 1865, and *The Fortnightly*, April, 1877.

[5] Fitzmaurice, Lord Edmund, *The Life of Granville George Leveson Gower, Second Earl of Granville*, II, p. 10; *Dictionary of National Biography*, second supplement, III, pp. 520–3.

[6] *The Supremacy of Great Britain not Inconsistent with Self-Government for the Colonies* (London, 1851), Appendix.

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tory, provisions for their temporary subjection to the authority of the Crown and their subsequent organization as a colony with representative institutions, and arrangements by which a colony, having arrived at maturity, might declare its desire for independence. The author was strongly influenced by current events. He believed that the union of the British North American provinces, then pending, would be followed by their independence, and the War of Secession in the United States, then in progress, confirmed him in his belief that the British colonies would eventually secede from the Empire.

As an expert parliamentary draftsman Thring naturally threw his scheme of colonial reform into the form of a parliamentary bill, which was printed in an appendix to his pamphlet. It consists of four parts, of which only the last, entitled "Independence of Colony", concerns us here. This outlined the procedure to be followed by a colony when it desired to withdraw from the Empire. It provided that if a resolution asking for independence should be adopted by the legislature of a colony, by a two-thirds majority of both houses, and confirmed after an interval of not less than three months by a similar resolution passed during the same session by a like majority, the governor should notify the Secretary of State for the Colonies, whereupon it should be lawful for the Queen to grant or withhold her assent to the petition of the colony. If the assent were given, it should be proclaimed in the colony, which should thereupon become independent. A colony, when it had become independent, would be in all respects in the same situation as an independent state, but it should be deemed to have entered into a treaty with the former mother country providing (1) that no law should be passed in the former colony impairing the obligation of any contract made before the date of the colony's independence; (2) that no differential duty should be laid on imports from or exports to any part of the British dominions; and (3) that no privilege should be conferred on the subjects of any foreign power that was not equally conferred on British subjects.[1]

[1] The idea of a statute, declaring the conditions on which Great Britain would be prepared to emancipate colonies, was not original with Thring; see Bell, Sydney S., *Colonial Administration of Great Britain* (London, 1859), pp. 396, 465.

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Shortly after the publication of Thring's pamphlet there appeared a work by Viscount Bury entitled *Exodus of the Western Nations*. Though the book was historical, the author, in a concluding chapter, turned his eyes to the future. He was firmly convinced that the separation of the colonies was a matter of time only, and that it should be prepared for with prudence and foresight so that it might take place peacefully and with mutual goodwill. "The wisest statesman", he said, "is not he who would by any shift postpone the inevitable day, but he who most clearly recognizes signs of maturity and seizes the right moment for separation". He proposed to supplement Thring's bill, of which he approved, by a treaty between Great Britain and a seceding colony. Believing that the British North American colonies, then about to confederate, would be the first to become formally independent, he submitted, as an indication of his views, a draft treaty in the form of "Articles of Separation" between Great Britain and British North America, the latter being referred to as the "New Nation". This provided, among other things, that the Imperial Government might at any time, either with the consent of Parliament or at the request of the colonists of the New Nation, give twelve months' notice of its intention to discontinue the exercise of authority over the New Nation and to recognize its independence; that Great Britain, to the utmost of her power, should protect the New Nation if the latter were attacked by an external enemy; that neither should discriminate against the other's commerce; and that citizens of each should enjoy the rights of citizenship in the other.[1]

The British public at large was uninterested in the colonies and ignorant of colonial conditions. The popular apathy, of which the colonial reformers of the thirties and forties had complained, was still general. Relatively trifling matters of home politics outweighed the gravest problems of colonial

[1] In 1885 Bury wrote: "It is twenty years since I published, in 1865, some volumes on the history of Colonising Nations, in which I arrived at very much the same conclusions that Mr. Forster has arrived at now, and so for years I watched for the separation which I firmly believed would come; but instead of separation came firmer union".

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policy. Scarcely any of the campaign speeches made during the General Election of 1868 touched upon colonial questions;[1] and even in Parliament they evoked, as a rule, little if any debate.[2] In discussing British anti-imperialism we are concerned, therefore, not with "the man in the street" but with the limited circle of those who had opinions on matters of colonial policy. How general, among such, were the views of Goldwin Smith, Lord Thring and Lord Bury? In his *Reminiscences* Goldwin Smith tells us that his opinions on the colonial question were prevalent in influential circles. "Some of our statesmen avowed them, more were inclined to them".[3] Let us test the truth of this assertion.

In a debate on the army estimates in March, 1865, John Bright thus expressed what may be taken as the view of the Manchester School:

> I suspect, from what has been stated by official Gentlemen in Government and in previous Governments, that there is no objection to the independence of Canada whenever Canada may wish it. I have been glad to hear those statements, because I think they mark an extraordinary progress in sound opinions in this country. . . . I do not object to that separation [of Canada from Great Britain] in the least; I believe it would be better for us and better for her.[4]

Sir George Cornewall Lewis was one of the few English politicians who had given systematic attention to questions of colonial government. His *Essay on the Government of Dependencies*, first published in 1841, was a standard treatise on its subject. In that work he wrote:

> If a dominant country understood the true nature of the advantages arising from the relation of supremacy and dependence to the related communities, it would voluntarily recognize the legal independence of such of its own dependencies as were fit for independence; it would,

[1] Macfie, R. A.: *Colonial Questions Pressing for Immediate Solution*, p. v.

[2] Hansard, 3rd Series, CXCVIII, 780.

[3] P. 169; see also Fitzmaurice, *op. cit.*, II, p. 20.

[4] *Speeches of John Bright*, ed. by J. E. Thorold Rogers, I, pp. 153–4; see also p. 161.

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by its political arrangements, study to prepare for independence those which were still unable to stand alone; and it would seek to promote colonization for the purpose of extending its trade rather than its empire, and without attempting to maintain the dependence of its colonies beyond the time when they need its protection.[1]

In 1862, when Secretary of State for War, he said in the House of Commons: "I, for one, can only say that I look forward without apprehension—and, I may add, without regret—to the time when Canada might become an independent state".[2]

In defending his Government against the charge that it had adopted a new policy of imperial disintegration, Gladstone, in April, 1870, made the following statement:

> If you look back to the history of the colonial connection between European Powers and trans-Atlantic possessions you find that it is the nature of those possessions to grow, and so to grow as to alter essentially, in obedience to laws stronger than the will of man, the conditions of their relation to the countries with which they were originally connected, until they arrive at that stage of their progress in which separation from the mother country inevitably takes place. It is impossible, however, to look back with satisfaction to the mode in which that separation has occurred. In every instance it has been brought about by war and bloodshed, involving an inheritance of pain, hatred and shame; whereas in reason there ought to be nothing to preclude the hope, when the growth of a colonial possession is such as to make separation from the mother country a natural and beneficial result, that the separation, so far from being effected by violence and bloodshed, might be the result of a peaceful and friendly transaction. Surely it is a great object to place, if possible, our colonial policy on such a footing, not for the purpose of bringing about a separation, but of providing a guarantee that, if separation should occur, it should be in a friendly way. That is the sense, the principle, and the secret of our policy with regard to colonial reform . . .[3]

Earl Granville, who was Colonial Secretary in Gladstone's first Ministry, at a time when imperial relations reached their

[1] *An Essay on the Government of Dependencies*, ed. by C. P. Lucas, p. 324.

[2] Hansard, 3rd Series, CLXVIII, 860.

[3] Hansard, 3rd Series, CC, 1900–1.

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most critical stage, undoubtedly shared the views of his leader. "Our relations with North America", he wrote in 1870, "are of a very delicate character. The best solution of them would probably be that in the course of time and in the most friendly spirit the Dominion should find itself strong enough to proclaim her [*sic*] independence".[1]

Robert Lowe, afterwards Viscount Sherbrooke, who was Chancellor of the Exchequer in Gladstone's first Ministry, said in the House of Commons in 1865 that Canada ought to be given to understand that she was quite free to establish herself as an independent republic if she desired.[2]

Disraeli, in a famous party pronouncement made in 1872, asserted that the Liberal Party had been striving for forty years, continuously, subtly and energetically, to disrupt the British Empire.[3] Surely his imperialism must have been above reproach. Yet he wrote privately in 1852 to Lord Malmesbury, then Foreign Secretary: "These wretched colonies will all be independent too in a few years and are a millstone round our necks".[4] Nor was this an outburst of mere momentary irritation, as we are assured by Disraeli's biographers.[5] Sir William Gregory, a veteran parliamentarian, who knew Disraeli intimately, tells us that his expressions with regard to the colonies "were always those of contempt and a contented impression that we should sooner or later be rid of them".[6] No doubt real empire, such an *imperium* as Britain wielded over India, appealed powerfully to Disraeli, but the conception of the British Empire as a commonwealth of nations does not seem to have stirred his imagination.[7] In September, 1866, he wrote to his party chief, Lord Derby:

[1] Fitzmaurice, *op. cit.*, II, p. 22.

[2] Hansard, 3rd Series, CLXXVIII, 153.

[3] Buckle, G. E.: *The Life of Benjamin Disraeli*, V, p. 194 *et seq.*

[4] Lord Malmesbury: *Memoirs of an Ex-Minister*, I, p. 344.

[5] Monypenny and Buckle, *The Life of Benjamin Disraeli*, III. p. 386.

[6] Gregory, Sir William, *An Autobiography*, chap. v; see also Goldwin Smith: *Reminiscences*, p. 168.

[7] Skelton, O. D., *The Life and Times of Sir Alexander Tilloch Galt*, p. 443.

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It never can be our pretence or our policy to defend the Canadian frontier against the U. S. . . . Power and influence we should exercise in Asia; consequently in Eastern Europe, consequently also in Western Europe; but what is the use of these colonial dead-weights which *we do not govern?* . . . Leave the Canadians to defend themselves; recall the African Squadron; give up the settlements on the West Coast of Africa; and we shall make a saving which will, at the same time, enable us to build ships and have a good Budget.[1]

While in London in 1866, as one of Canada's delegates to a conference to arrange for the enactment by the Imperial Parliament of the draft constitution for the new Dominion of Canada, framed by the Quebec Conference of 1864, Alexander T. Galt, one of the "fathers" of Confederation, was forcibly impressed by the desire of British statesmen to wash their hands of Canada. In a private letter, dated January 14, 1867, he wrote: "I cannot shut my eyes to the fact that they want to get rid of us . . . I much doubt whether Confederation will save us from Annexation. Even Macdonald is rapidly feeling as I do".[2]

No one who recalls Charles Buller's ironical attack on the Colonial Office is likely to underrate the influence on colonial policy exerted by the permanent officials of the department. Long tenure of office and thorough familiarity with the routine of official business enabled the permanent under-secretary as a rule to guide his official superior, who was selected for party reasons and whose tenure of office was usually brief.[3] Sir James Stephen, called by the colonial reformers in derision "Mr. Mother-Country Stephen" and "Mr. Over-Secretary Stephen", while serving under a succession of secretaries of state, virtually ruled the colonial empire for twenty-five years.[4] In 1848 he was succeeded as permanent under-secretary by Herman Merivale, who, while professor of political economy

[1] Buckle, G. E., *The Life of Benjamin Disraeli*, IV, p. 476.

[2] Skelton, *op. cit.*, pp. 410–411.

[3] Hansard, 3rd Series, CC, 1825; *Victoria Parliamentary Debates*, 1869, IX, pp. 2136–2137.

[4] *Autobiography of Henry Taylor*, II, pp. 300–301.

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at Oxford, had delivered a course of lectures on colonies which made a great impression and led to his appointment to the Colonial Office. Merivale believed that the colonies would ultimately become independent,[1] as did his successor, Sir Frederic Rogers, afterwards Lord Blachford, who held the office of permanent under-secretary from 1860 to 1871, during the entire decade under review.[2] Goldwin Smith's statement that Rogers shared his views on colonial policy is certainly not an exaggeration.[3] In some autobiographical notes which he left, Rogers wrote:

> I had always believed—and the belief has so confirmed and consolidated itself that I can hardly realize the possibility of anyone seriously thinking the contrary—that the destiny of our colonies is independence; and that, in this point of view, the function of the Colonial Office is to secure that our connection, while it lasts, shall be as profitable to both parties, and our separation, when it comes, as amicable as possible. This opinion is founded first on the general principle that a spirited nation (and a colony becomes a nation) will not submit to be governed in its internal affairs by a distant Government, and that nations geographically remote have no such common interests as will bind them permanently together in foreign policy, with all its details and mutations.[4]

So strong were Rogers's convictions that he was not swept into the imperial reaction of the seventies and eighties.[5]

An intimate friend of Rogers's was Sir Henry Taylor, the author and playwright. Taylor served in the Colonial Office in subordinate positions for nearly fifty years, from 1824 to 1872. His anti-imperialism was clear and emphatic. In 1852 he wrote to Earl Grey, then Colonial Secretary, that he regarded the British North American colonies as "a most dangerous possession for this country, whether as likely to breed a

[1] See his *Lectures on Colonisation and Colonies*, new edition, London, 1861, p. 677.

[2] *Dictionary of National Biography*, XVII, pp. 119–120.

[3] *Reminiscences*, p. 169.

[4] *Letters of Frederic, Lord Blachford*, ed. by G. E. Marindin, pp. 299–300.

[5] *Ibid.*, p. 425.

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war with the United States or to make a war otherwise generated more grievous and disastrous". He added: "I do not suppose the provinces to be useless to us at present, but I regard any present uses not obtainable from them as independent nations to be no more than the dust of the balance as compared with the evil contingencies".[1] Twelve years later, in 1864, he wrote in a letter to the Duke of Newcastle, then Colonial Secretary:

> As to our American possessions, I have long held and often expressed the opinion that they are a sort of *damnosa hæreditas;* and when your Grace and the Prince of Wales were employing yourselves so successfully in conciliating the colonists I thought that you were drawing closer ties which might better be slackened if there were any chance of their slipping away altogether. I think that a policy which has regard to a not very far off future should prepare facilities and propensities for separation.[2]

Some anti-imperialists feared that an independent Canada would be annexed to the United States, but Taylor saw nothing to be alarmed at even in this eventuality.[3]

The anti-imperial movement reached its climax in the early part of Gladstone's first Ministry, which was formed in December, 1868. Lord Granville, Bright and Lowe, whose anti-imperial utterances have been quoted, were members of the Cabinet, the first-mentioned presiding over the Colonial Office. Certain events soon occurred to create a belief, which became widespread in the colonies and in England, that the Government was contemplating, if it had not positively decided upon, the dissolution of the Empire.[4]

[1] *Correspondence of Henry Taylor*, ed. by Edward Dowden, p. 200.

[2] *Autobiography of Henry Taylor*, II, p. 234.

[3] *Ibid.*, pp. 239–241.

[4] Hansard, 3rd Series, CXCIX, 208 *et seq.*; CC, 1820–1823, 1847; CCII; 472; Fitzmaurice, *op. cit.*, II, pp. 20–21; *Spectator*, XLII, pp. 752–3, 868, XLIII, pp. 227, 393–4; *The Tablet*, XXXIV, pp. 125–126; XXXV, pp. 382, 418–19; Skelton, *op. cit.*, pp. 437, 449; Henry Sewell: *The Case of New Zealand and Our Colonial Policy*, p. 25 *et seq.*; G. B. Adams: "Origin and Results of the Imperial Federation Movement in England," in *Proceedings of the State Historical Society of Wisconsin*, 1898, p. 93 *et seq.*

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In the first place a crisis was reached in the relations between the Imperial Government and the colony of New Zealand. For some years before the Gladstone Ministry took office, successive Governments had been carrying out a policy of withdrawing imperial military forces from the self-governing colonies.[1] In May, 1868, at a time when hostilities were in progress between the colonists of New Zealand and some of the native tribes, the Duke of Buckingham, then Colonial Secretary, notified the Governor of New Zealand that the last of the British troops would soon be removed; and even after a massacre of some thirty colonists had occurred at Poverty Bay in the North Island, the Colonial Office declined to grant the colony's request that the recall of the troops should be delayed. Lord Granville, upon taking office, announced that he would adhere to his predecessor's policy.[2] Early in February, 1869, a representative of the New Zealand Government asked for an imperial guarantee of a loan to aid the colony in borrowing money to cover contemplated war expenditure, but this request also was peremptorily refused by Lord Granville in a dispatch to the Governor of New Zealand (March 21, 1869), which aroused the deepest indignation throughout the colony and no little hostile criticism in England. A protest signed by Sir George Grey, formerly Governor of New Zealand, and several other persons who had held office in the colony, declared that the policy of the Imperial Government was calculated to drive New Zealand out of the Empire.[3] Lord Granville's dispatch was reprinted in the New Zealand and Australian newspapers, which strongly resented its content, and especially its tone; and part of the New Zealand press went so far as to advocate openly the annexation of New Zealand to the United States.[4] A later dispatch of the Colonial Secretary (October 7, 1869) still further embittered the feeling of the New Zealand colonists. In this, although he had been informed that the New Zealand Parlia-

[1] See *American Historical Review*, XXVI, p. 18 *et seq.*

[2] *Parliamentary Papers*, 1868–69, XLIV, pp. 418, 420, 422–24.

[3] *The Tablet*, XXXIV, pp. 125–6.

[4] *Parl. Pap.*, 1870, L [C. 83], pp. 95–100.

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ment had passed an act binding the colony, in the event of the Imperial Government sanctioning the retention of the troops, to pay whatever contribution might be demanded, Lord Granville stated that under no conditions would the recall of the troops be further delayed.[1] The New Zealand ministers officially recorded their conviction that the "tone and purport" of this document would be taken in the colony to indicate a desire on the part of the Imperial Government to sever the colony's connection with the Empire.[2] Writing from New Zealand in January, 1870, the *Times* correspondent said:

> As the immediate consequence of Earl Granville's expressions and his declaration of the Imperial policy towards New Zealand, the expediency of declaring the independence of the colony, of refusing to maintain the Viceregal establishment, and even of annexation with the United States has been freely discussed, and it is only because the case of the colony appears to have attracted considerable attention and called forth the sympathy of a large and influential section of the English people that no decided steps have been taken in one of these directions.[3]

The conduct of the Imperial Government gave rise to a long debate in the New Zealand Parliament, in the course of which bitter resentment was expressed at the tone of Granville's dispatches, and the view was freely voiced that the dissolution of the Empire was at hand.[4]

In England the alarm was sounded in the press by the Liberal *Spectator* and the Roman Catholic organ, *The Tablet*. Both professed to see in the dispatches of the Colonial Secretary and the utterances of supporters of the Ministry evidence that the Government had adopted a policy of dismembering the Empire, and both demanded that the sense of the country should be taken on such a policy.[5] "It is clear", said *Spectator*

[1] *Parl. Pap.*, 1870, L [C. 83], pp. 63, 196–7.

[2] *Ibid.*, No. 180, pp. 3–4.

[3] Hansard, 3rd Series, CC, 1821.

[4] See debate on the conduct of the Imperial Government in *N. Z. Parl. Deb.*, 4th Parl., 5th Sess., VII.

[5] *Spectator*, XLII, pp. 752–3, 868–9, 1202; *The Tablet*, XXXIV, pp. 110–111, 655.

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(July 24, 1869), "that Mr. Goldwin Smith's colonial 'policy' . . . has not only been accepted by the existing Government, but that they are acting on it. It is not only New Zealand which is to be dismissed, but Australia, not only Australia, but the Canadian Dominion . . ." In the House of Commons attention was called to the New Zealand crisis, and some opposition was expressed to the withdrawal of all imperial protection from the colony; nevertheless the Government's course was light-heartedly defended by the parliamentary under-secretary for the colonies and no member of the Cabinet deemed it necessary to participate in the debate.[1] Official denials by the Government of any intention to bring about the separation of New Zealand from the Empire failed to satisfy the colony or to silence the critics of the Government in England.[2]

The attitude of the Imperial Government in its relations with New Zealand led to a meeting of colonists resident in London at the Palace Hotel, Westminster, on August 4, 1869, at which it was decided by those present to enter into communication with the colonies on the subject of their relations with the mother country. A few days later letters were sent to the governments of the self-governing colonies in which the view was expressed that British policy seemed to point to the disintegration of the Empire, and the proposal was made that a conference of representatives of the self-governing colonies should be held in London early in the following year for the purpose of considering such changes in colonial administration and in imperial relations as might seem desirable.[3] The Colonial Office discountenanced the project, and the responses of the colonial governments were not favorable to it. The conference was never held, though the proposal elicited a good deal of interest and discussion.

It was not the New Zealand crisis alone that lent support to the view that the Imperial Government was aiming at the dis-

[1] Hansard, 3rd Series, CXCVIII, 456 *et seq.*

[2] *Parl. Pap.*, 1870, L, 180, p. 8; Hansard, 3rd Series, CC, 1820; *Spectator*, XLII, p. 1522.

[3] *The Times*, August 26, 1869, p. 9.

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solution of the Empire. There was at this time a considerable sentiment in Canada in favor of independence, and though it was caused principally by the friction between the United States and Great Britain during and after the American Civil War and a belief among Canadians that the British connection subjected them to constant danger from their southern neighbor, it was certainly not diminished by the conviction of many Canadians that Great Britain would welcome the separation of the Dominion from the Empire.[1] The course taken by the Imperial Government, far from allaying the movement for independence in Canada, was calculated to strengthen it.

Early in 1869 Lord Granville, through the Governor of Canada, offered Alexander Galt the Order of St. Michael and St. George. Feeling that it would be improper to accept the honor without informing the Imperial Government precisely of his political views, Galt wrote in reply: "I regard the Confederation of the British North American Provinces as a measure which must ultimately lead to their separation from Great Britain. . . . I believe the existing relations would be safer if the future state were clearly recognized, and, if possible, a term fixed therefor".[2] In spite of this plain statement of his views, the distinction was conferred upon him; and when in February, 1870, in a debate in the Canadian Parliament his opinions were spoken of as disloyal, he replied that, inasmuch as the honor had been bestowed upon him, he did not consider himself more disloyal than Her Majesty's ministers.[3] It was natural to draw the conclusion that the Imperial Government and Galt were at one in their desire for the political future of Canada, especially as Lord Granville refused to permit the publication of one of the letters which he had written in the course of the correspondence.[4]

[1] Skelton, *op. cit.*, pp. 410–411, 449.

[2] *Ibid.*, pp. 451–452; for Galt's views as to the future of Canada, see *Parl. Deb., Dominion of Canada*, 3rd Sess., I, p. 139 *et seq.*

[3] Skelton, *op. cit.*, p. 454.

[4] *Spectator*, XLIII, p. 393; *The Tablet*, XXXV, p. 382; Hansard, 3rd Series, CC, 1820–1821; Skelton, *op. cit.*, p. 455.

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The decision of the Government to withdraw almost all of the few British troops still left in Canada seemed to point to the same conclusion. The question was not so much the withdrawal of the troops as the motive for the withdrawal; and many Canadians undoubtedly believed that the motive was to show them that they could stand alone. In the House of Lords the Earl of Carnarvon, who as Colonial Secretary in a preceding Government had himself been instrumental in withdrawing British troops from the colonies, professed to see nothing but disaster to the Empire in the "shabby policy", as he called it, which the Government was pursuing.[1] "I hope", he said, "that Her Majesty's Government are serious in the belief that the course they are now taking will not lead to the dismemberment of the Empire; but I warn them—as everyone who stands calmly and impartially by must warn them—that, whatever may be their meaning, they are doing the very acts, they are taking the very steps, which must accomplish that result".[2] It was important, he added, that the Government should announce its colonial policy. "There are whispers abroad that there is a policy on foot to dismember this Empire. . . . If there is such a policy, in God's name let us know it; if there be not, let it be disavowed".[3] As tending to confirm the rumors, he referred to a public meeting at Halifax in the summer of 1869 at which the Governor-General of Canada threw out what was taken to be an intimation that the time had perhaps come for Canada to consider whether she was not ripe for independence, and to a recent dispatch of Granville's which, he said, might lead to the inference that the Government desired to wash its hands of British Columbia.[4]

Early in General Grant's first term as President it was seriously urged by members of his Administration and especially by Senator Sumner, chairman of the Senate committee on for-

[1] Hansard, 3rd Series, CXCIX, 204-5; Fitzmaurice, *op. cit.*, II, pp. 23-24. The departure of the troops was delayed by a threatened Fenian raid from the United States and a rebellion in the Red River Settlement.

[2] Hansard, 3rd Series, CXCIX, 208.

[3] *Ibid.*

[4] *Ibid.*, pp. 209-10.

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eign relations, that the claims of the United States against Great Britain for damages sustained during the Civil War should be settled on the basis of the withdrawal of Great Britain from the western hemisphere and the annexation of Canada to the United States. In his illuminating essay on the Treaty of Washington Charles Francis Adams shows that this grandiose project, in view of the anti-imperialist sentiment expressed by the British minister in Washington and by the British press of the day, was not as preposterous as it would otherwise appear to have been. "Mr. Sumner", he says, "certainly had grounds for assuming that a not unwilling hemispheric flag-withdrawal by Great Britain was more than probable in the early future."[1] In December, 1869, and January, 1870, Hamilton Fish, the American Secretary of State, in conversations with the British minister, Sir Edward Thornton, urged the complete withdrawal of Great Britain from Canada. "Oh, you know that we cannot do", Thornton replied. "The Canadians find fault with me for saying so openly as I do that we are ready to let them go whenever they shall wish; but they do not desire it". And later, in 1870, he reiterated that his Government was willing and even anxious to have the colonies become independent.[2]

To the Australian colonies the recall of imperial troops was not so vital a matter as it was to New Zealand, for Australia was not vexed with warlike native tribes. However, Australian public opinion was naturally affected by what was happening in New Zealand, and many Australians believed that independence was the ultimate destiny of their country. There was certainly a widespread impression that such an outcome would be welcomed by the Imperial Government.[3]

At the Cape of Good Hope it was openly stated in the parliament that independence was impending in Canada, Australia and New Zealand. "In North America", said Sir Philip Wodehouse, formerly governor of the colony, "we have unmistak-

[1] *Lee at Appomattox and Other Papers*, p. 158.

[2] *Ibid.*, pp. 157, 160; Moore, J. B., *Digest of International Law*, I, pp. 581–582.

[3] See, e. g., Lang, J. D., *The Coming Event* (London, 1870), especially pp. 313–314; also *Victoria Parliamentary Debates*, 1869, IX, pp. 2264 and 2266–7.

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able indications of the rapid establishment of a powerful independent State. In Australia it is probable that its several settlements, with their great wealth and homogeneous population, will see their way to a similar coalition. *In New Zealand the severance is being accomplished under very painful circumstances*".[1] *Spectator*, in an article on "The New Colonial Policy" (March 26, 1870) remarked that in view of Wodehouse's declarations and Galt's declarations, and the "unparalleled severity" of the Government's dealings with New Zealand, "any politician of ordinary sagacity will draw the inference that a deliberate colonial policy of no insignificant moment has been, at all events, *provisionally* adopted by the present Cabinet, which they are not willing to confide to Parliament and to have discussed in Parliament as yet". It was the duty of the Government, *Spectator* insisted, to take the sense of the nation "on the boldest and most startling innovation in modern statesmanship".[2]

There are evidences that even before the formation of Gladstone's Ministry a revival of imperialism was at hand. In the summer of 1868 a society, later named the Royal Colonial Institute, was organized in London to arouse interest in colonial questions; the advantages of closer union between England and the colonies were beginning to be canvassed; and there are other indications that a change in public opinion was at hand.[3] The imperial reaction was naturally strengthened by the suspicions entertained of the intentions of Gladstone's Government. The earlier public apathy passed away. Relations between the mother country and the colonies became a subject of lively discussion in the press and in public meetings. A series of conferences were held in 1869 at the Cannon Street Hotel in the City of London by persons interested in promoting closer imperial union. Questions of colonial policy were seriously debated in Parliament.[4]

[1] Hansard, 3rd Series, CC, 1823.

[2] *Spectator*, XLIII, pp. 393–4.

[3] Burt, *Imperial Architects*, chap. vi; *Proceedings of the Royal Colonial Institute*, I, pp. 1–18.

[4] See Hansard, 3rd Series, CC, 1847 *et seq.* and CCII, 460 *et seq.*

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It was very soon apparent that the country would not sanction any policy of cutting the colonies adrift. Nor must it be supposed that the ministers, whatever the individual opinions of some of them may have been, had, collectively, as a Government, adopted such a policy. Had they done so, Mr. W. E. Forster, who openly stated his conviction that public opinion would not permit the dismemberment of the Empire, could not have remained a member of the Ministry.[1] The imperial question must have been discussed at Cabinet meetings, though what was said upon it we do not, of course, know. In view, however, of the anti-imperial sentiments of some of the ministers, and the declarations of Lord Granville and Lord Kimberley, who succeeded him at the Colonial Office in July, 1870, to the effect that the Government was not seeking to dismember the Empire,[2] it seems not unreasonable to surmise that it was left an "open" question, on which members of the Government were not bound to unanimity. In an article entitled "Greater or Lesser Britain", published in *The Nineteenth Century*, in July, 1877, Sir Julius Vogel, who had been a member of the New Zealand Ministry at the time of the crisis in the relations between the colony and the Imperial Government, conjectured that a decision was reached by the British Cabinet to to the effect that, whatever might be the opinions of individual ministers, the Government should not commit itself to the dismemberment policy. "But without any policy of the kind", he added, "a strong conviction might have been entertained that the colonies would in course of time be detached from the Empire, and that the sooner that result ensued the better".[3]

In May, 1870, an accomodation was reached in the New Zealand dispute, which was taken to indicate, both in the colonies and by critics of the Government in England, that the Imperial Government had changed its attitude, not only toward New Zealand but on the imperial question in general. The Govern-

[1] See his speech to his constituents on January 17, 1870; *The Times*, January 18, 1870, p. 5.

[2] Hansard, 3rd Series, CXCIX, 219; CCIII, 715.

[3] *Cf. Spectator*, XLIII, p. 632.

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ment of New Zealand sent special commissioners to England to negotiate for the retention of the troops and for assistance to the colony in creating a colonial military force. One great object hoped for from the mission, as stated by the New Zealand premier, was the re-establishment of harmonious relations between the Imperial and the New Zealand Governments. The commissioners were unable to induce the Colonial Office to yield on the question of the withdrawal of the troops, but they offered to accept an Imperial guarantee of a loan of £1,000,000 to cover expenditures incurred in aid of immigration and the construction of public works in the colony "as a measure of conciliation which would be taken throughout New Zealand as proof of the continued goodwill of the Imperial Government, and of its desire that the relations between the Imperial and Colonial Governments should be maintained on the most friendly footing". The knowledge in New Zealand that such an agreement had been reached would, the commissioners informed Lord Granville, "put an end to irritation and discontent". The Colonial Office, which had previously refused so peremptorily to accede to a like request, now yielded and agreed to introduce the necessary legislation in Parliament. "If we have not been able to induce your lordship to regard in the same light as the Assembly [of New Zealand] did, the question of military assistance," wrote the commissioners in a letter to Granville thanking him for the concession that had been made, "still the chief object of our mission has been gained. It is not a mere matter of money that has been arranged; a lasting tie has been made between the two Governments by their engaging together in objects in which the nation has a common interest with her Dependency. . . ." In a reply, in which graciousness of language took the place of the blunt uncompromising tone of his earlier dispatches, Granville wrote: "I trust that the decision of Her Majesty's Government to waive the objections which attach to the guarantee of Colonial loans will be received by the colonists of New Zealand as a proof of the deep interest which they feel in the welfare and prosperity of this great possession of the Crown".[1] In New Zealand the

[1] For the negotiations between the N. Z. Commissioners and the Colonial Office and

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concession made by the Imperial Government was regarded as a peace offering, and the colonial legislature resolved to let bygones be bygones.[1]

Spectator was jubilant, insisting that nothing less than a revolution in British colonial policy had taken place. "Ministers have changed their policy, have changed it very abruptly, and have changed it for the best of all reasons,—because they had begun to discover that their line was not the line of the people of England, and would, if pushed to its logical results, end in events which would bring down the bitter displeasure of the people of England. . . ." The Liberal press, which was supporting the Government through thick and thin, might try to show that the concession to New Zealand was in harmony with the previous course taken by the Colonial Office, but that, according to *Spectator*, was all nonsense, and it was important for the people of New Zealand to know that it was all nonsense. The difference between military aid and financial aid was merely administrative; there was no difference in policy.[2] Nor was *Spectator* alone in its opinion that a change in colonial policy had occurred. "I am happy to see", said Earl Russell in the House of Lords, "that my noble Friend, the present Secretary of State for the Colonies [Earl Granville] seems in some respects to have changed his opinion; and I always thought that when he had further studied colonial questions and the position of this country, he would be of opinion that it was necessary not only to allow the Colonies to pay their allegiance to this country, but to give them from time to time such encouragement as to make them pay that allegiance happily and contentedly".[3]

From the summer of 1870 onward, anti-imperial sentiment waned rapidly. When in July Lord Granville was transferred to the Foreign Office, all imperialists breathed more easily.

their outcome, see *Parl. Pap.*, 1870, L. [C. 83.] pp. 102–4, 127; *ibid.*, No. 298; 33 & 34 Vict., C. 40.

[1] *N. Z. Parl. Deb.*, 4th Parl. 5th Sess., VIII, pp. 17, 137.

[2] *Spectator*, XLIII, p. 632.

[3] Hansard, 3rd Series, CCII, 454.

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His successor, Lord Kimberley, was not suspect as he had been, and official assurances that the Government cherished no anti-imperial designs carried greater conviction. Disraeli skilfully seized upon imperialism as a party issue, and probably no part of his political program appealed more powerfully to the British electorate than his pledge to maintain the integrity of the Empire. The Conservative victory in the general election of 1874 drove Little-Englandism completely from the field of practical politics.

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PROBLEMS OF LOCAL TAXATION IN ENGLAND

ONE of the differences in terminology between England and America is the use in the former country of the word "rates" to denote what in the latter are called "local taxes". In England the "rating question", *simpliciter*, has nothing to do with railroad charges, but is concerned with the mulcting of the householder, or "rate-payer", of the sums necessary for the upkeep of local government. The pinch of this exaction is felt quite as keenly whatever the name that is given it, and just now it is not the least of the many worries afflicting the citizen who was looking forward with too sanguine expectations to the immediate realization of a new and more comfortable world. The outcry against higher rates has been even louder and more widespread than that against higher national taxes. The first resolution passed at an important representative conference held in London in November, 1920, denounced "the recent rapid increase of the rates throughout the country" as "an intolerable burden on trade and industry and upon all classes of rate-payers". Public meetings of protest have been held in many places, accompanied in some instances by threats of refusal to pay. The situation, indeed, is approaching a deadlock; for many a citizen, already at his wits' end to meet a greatly increased income tax and a rise in the cost of everything he buys, finds the demands of the rate-collector more than he can satisfy without having recourse to the pawnbroker or the money-lender.

It would occupy too much space to attempt to give here a complete account of the financial system of English local government, but a brief outline of it may be desirable as an introduction to the study of the present problem. The great cities, such as Manchester and Birmingham, are county boroughs, managed by county borough councils. Outside these are the areas administered by county councils. Below these come, in the more thickly populated districts, the non-county borough councils and the urban district councils, and, in the rural dis-

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tricts, the rural district councils. Below the rural district councils stand the parish councils. These various bodies administer, with varying degrees of responsibility, the laws relating to public health, education, the police, housing, the sale of intoxicants, highways, markets, old-age pensions and other poor relief, fire protection, public libraries, and so on. The income of these bodies is derived from rates, which are calculated upon the so called "rateable value" of the property—mainly, occupied buildings—within their boundaries. The assessment is based upon the rent, with a certain allowance, usually about one-sixth, for the cost of keeping the place in repair. Thus a house actually rented at £60 a year would be assessed at £50. If it is not rented, the amount at which it might reasonably be rented is taken as the rateable value. A rate of so many shillings in the pound means a levy of this number of shillings for every pound of rateable value. On agricultural land only half-rates are paid. The officials of each parish send annual returns of its total rateable value to the county council, which then apportions its demands to the various minor bodies within its domain according to their ability to pay. These minor authorities add to the demands of the county council whatever sum is needed for the public services peculiar to themselves, calculate what rate per pound of rateable value will be required to raise this amount, and make their levy accordingly.

The proceeds of the rates are not the sole source of income at the disposal of the local authorities. They are assisted by "grants in aid" from the national exchequer, which are assigned for specific purposes, and are either (1) so far fixed in amount as to be independent of any action of the local authority receiving them, (2) varying in some relation to the amount spent by the local authority, or (3) dependent on certain services being rendered by the local authority but not increasing in proportion to the amount spent. The subventions made for education and for the maintenance of the police are among the most notable examples of these grants in aid. For the present financial year the grants in aid are estimated to amount to about £70,000,000, while the income from the rates will be about £149,000,000. Ultimately, of course, the grants in aid

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come out of the pockets of the same persons as the rates; but in the one case, the citizen pays *qua* taxpayer, on a basis calculated according to the needs of the whole country, and in the other *qua* ratepayer, on the basis of the needs of his own county or county borough and of the rateable value of his own immediate neighborhood.

The extraordinary increase in the burden of the rates during recent years will be realized from a few specimen figures. According to Sir Robert Giffen, a rate of 7s. 6d. in the pound is the utmost levy that a locality can sustain without detriment to its industries and enterprises, or, in other words, without damaging employment. But in nine of the metropolitan boroughs the rates in the forthcoming year will average over 21s. in the pound, and the average rate of the remainder will be about 17s. The rate in Bethnal Green has gone up from 8s. in 1910–1911 to 19s. 11d. in 1920–1921, and in Islington from 7s. 8d. in the earlier period to 17s. 3d. in the later. The provincial boroughs are scarcely more fortunate. In several of them the rate has been doubled since before the war. Norwich heads the list with a record-breaking rate of no less than 32s. 4d. in the pound. The total amount raised by local rates in England and Wales has risen from £52,940,000 in the financial year ending 1904 to £61,273,000 in 1909, to £71,276,000 in 1914, to £84,500,000 in 1919, and, as mentioned above, to £149,000,000 in the current year. Sir Arthur Chapman, the Vice-Chairman of the County Councils Association, is responsible for the statement that a family of five persons is on an average paying 4s. a week more in rates than in 1914–1915. Lord Parmoor's estimate, as given the other day in the House of Lords, is that the average rate in 1921 will be 13s. 8d. in the pound, or £4. 1s. 3d. per head of the population. "The householder", says the *Manchester Guardian*, "already paying away nearly a third of his income in income tax, and with the remainder able to purchase about two-fifths of the necessaries and comforts which he could buy with the same money in 1914, finds at the same time that his house rent is approximately doubled by the rates". And the process of increase is still continuing, so that, according to some competent authorities, we are within meas-

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urable distance of the time when some local authorities will be levying a rate of 40s. in the pound. The districts in which the burden is heaviest have an additional cause of apprehension in the tendency of residents to migrate to some neighborhood where the exaction is less, thus increasing the rate that has to be levied upon those who remain. Evidently there is little prospect of the institution in the near future of the municipal orchestras and municipal theatres for which the artistic world has been carrying on a propaganda. After this review of the situation one can appreciate the gibe of an Islington alderman who, in commenting upon the plans for a new town hall, called attention to the fact that they were to include two nude figures, which, he supposed, were intended to represent the ratepayers, stripped of superfluous cash and clothes.

To what causes is this startling increase in the cost of local government to be attributed? There is a popular impression that it is due mainly to the new obligations—in such matters as education, public health, and so on—imposed by Parliament on local authorities in recent years. An examination of the figures, however, will show that only a small proportion of the increase is the result of new legislation. The additional services required of the rate-payers by the Ministry of Health during the last two years account for an increase of less than 5d. in the pound. Sir Arthur Chapman's estimate is that not more than 20 per cent of the increase is occasioned by the new burdens placed upon the local authorities by all the Government Departments combined.

The remaining 80 per cent, according to the same authority, is almost entirely due to the rise in salaries, wages, and cost of material. Sir Arthur Chapman contends, however, that the rise in salaries and wages is in great measure due to the action of the Government, which not only set the example by increasing the payment of its own employees 50 per cent, but circularized the local authorities urging and almost commanding them to raise the payment of their employees in the same way. The Home Office has also pressed for an increased bonus to the police, in the face of actual evidence that, in county areas at any rate, it was not required. The benefit thus given to the

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police has naturally made other public servants dissatisfied with what they were getting. How the cost of material has risen may be seen from some specific items. In 1913–1914 the borough of Shoreditch bought 452 tons of cement for £853, but in 1919–1920 it had to pay £2,123 for 526 tons. Stepney paid £1,401 for 213 tons of creosoted blocks in 1913–1914, but in 1919–1920 the price of three and a half tons less had jumped to £4,166. Camberwell bought 21 tons of asphalt in 1913–1914 for £49, but in 1919–1920 it paid £205 for 34 tons. These charges are all the heavier because so much repair work was postponed during the war. The local authorities were then urged to exercise the most rigid economy and to restrict their expenditures as far as possible, with the result that important public services were neglected and it is now more than usually costly to overtake arrears. A further important cause of increased expenditure is the much larger sum now payable in interest upon loans, owing to the present scarcity of money—by no means a trivial item in municipal book-keeping, seeing that the outstanding debt of the local authorities in 1915 amounted to £570,768,492. Formerly it was often possible for a local authority to increase its total expenditure without any corresponding rise in the rates, for the growing prosperity of a district meant an increase in the rateable value of the property included within it, so that new sources of income could be tapped. The total rateable value of property in England and Wales rose from £115,646,631 in 1874 to £145,527,994 in 1884, to £161,139,575 in 1894 and to £182,800,000 in 1904. But the rateable value, as explained above, is based upon the rents, and recent legislation has imposed restrictions on the raising of the rents of the largest class of rateable property, with the result that the total rateable value has increased by only about six per cent since 1913.

Various remedies have been suggested as means of escaping the threatened deadlock. One proposal is that the cost of education, public health, poor relief, main roads, and other public services administered by the local authorities should be placed wholly upon the national exchequer. The advantage of this plan would be that it would equalize the financial burden as be-

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tween one part of the country and another. At present some of the least affluent districts have to meet the heaviest charges. A district inhabited mainly by a working-class population of the unskilled type has naturally to pay out a larger sum in poor relief than a well-to-do suburban neighborhood, while at the same time its rateable value is smaller and its rates consequently higher. There are strong objections, however, to the nationalization of these charges. It would further swell the size and power of a central bureaucracy that is already overgrown. If the national exchequer met the whole cost, it would be impossible to allow the local authorities to retain such control as they now possess over the expenditure of the money, and incidentally one of the best features in English public life would be destroyed, for no city would secure the services of its best men in the work of local government if the functions of the administrative bodies were thus impaired. More support is generally given to the proposal that the "grants in aid" from the national exchequer should be substantially increased. It would be possible to give considerable relief in this way while still meeting a good deal of the cost out of the rates.

At the conference on the subject held in London in November, 1920, a resolution was carried endorsing three proposals against which no one could make any reasonable objection. (1) An estimate of local government expenditure should be presented to Parliament each year at the same time as the national budget is introduced. At present, no official estimate of the kind is available. (2) When any bill that affects the local authorities is introduced into Parliament, there should be presented with it, before it is discussed, an estimate of the cost its proposals will involve, in the first place to the taxpayer and secondly to the ratepayer. (3) Any proposal in Parliament involving fresh charges upon the rates should be subject to the procedure now in force as regards imperial taxation, i. e., that a special resolution must be moved in committee and reported to the House before the matter can be considered. These reforms in procedure would certainly be a useful safeguard against a too hasty acceptance by Parliament of schemes whose attractive features are made prominent while the cost of

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putting them into operation is ignored. But a check on the activities of Parliament, while commendable as far as it goes, will evidently not go far, in view of the fact that so small a proportion of the increase in the rates is due to demands that originate in Parliament.

A section of the press has been calling loudly for what it describes as a "rationing" policy. Each county council, or other local authority, is to fix its rates definitely at so much in the pound for a period of three years or so. It is then to allocate the estimated income among its various spending departments according to what are believed to be their necessities, and these departments are to manage somehow or other to keep their expenditure within their income. The cry is a popular one. It can be defended by quoting the wholesome maxim that you should cut your coat according to your cloth. The Birmingham City Council is seriously considering the adoption of a plan of this sort, and other municipalities are reported to be inclined to follow suit. But the matter is not quite so simple as it appears at a first glance. Has a municipal body that happens to be in office today the power to pledge its successors? And is it possible to determine in advance either the services that the local authority will be required to render or what the cost of them will be? Few experts in the actual working of local government regard the plan with any favor. Sir Arthur Chapman, for instance, pronounces against it, and says that the Surrey County Council, of which he was formerly chairman, once attempted a scheme of this sort but had to give it up as unworkable. The difficulties, he points out, would be even greater if Parliament were to set a limit of expenditure to be observed by county councils generally, without regard to the local circumstances or needs.

The root of the trouble is that, after all, there is so very little in the expenditure of the local authorities today that can be challenged as extravagant or unnecessary. What service at present rendered by the local authorities is so much of a luxury that it can be given up without serious damage to the welfare of the community? "High rates and a healthy town" was Joseph Chamberlain's motto, and by applying it in Birmingham

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during his mayoralty he won for that city a reputation for efficient administration which it has not yet lost. Arthur Greenwood, one of the "intellectuals" of the Labor party, maintains that no other expenditure yields so much in return as that which is made by the local authorities. "Compare", he says, "local expenditure with national expenditure. During the current year half the total imperial revenue is being devoted to the national debt services and the fighting forces. After a war to end war, the maintenance of the army, navy, and air forces is costing the country at the present time, according to the official estimates"—he was writing in November, 1920—"a sum equivalent on the average to 9s. 6d. per family of five per week. Local expenditure, however, is principally devoted to socially useful services—to education, to relief of the poor, to the maintenance of public roads, public parks, and similar purposes". He asks the complaining ratepayer to consider what he and his family obtain for the expenditure of 8s. a week on rates and compare it with what 8s. would buy in clothing or tobacco. One might appropriately summon another familiar proverb to one's aid in combating the policy of starving the public services—in such matters especially as health and education—in order to save the rates. It would be a policy of "penny wise and pound foolish". Unhappily that policy has already been put into operation with regard to education. Some of the most important reforms that were to be secured by the Education Act of 1918 are to be shelved for a time, and several thousands of young people who should have been attending continuation schools will suffer for the remainder of their lives from the snatching away from them of the opportunity of an education that they so urgently need.

After all is said and done, there seems little prospect that any permanent improvement of the situation can be brought about by cutting down this, that, or the other item of expenditure on the balance sheets of the local authorities. If money is saved thus today, it will be more than counterbalanced by additional expenditure on jails and hospitals in years to come, to say nothing of the loss suffered by the community in the diminished productive power of men and women whose health

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and education have been neglected. But while the expenditure of the local authorities could not safely be decreased, something might be done to enlarge their sources of income and to make the burden of their support fall upon shoulders that are better able to bear it. There is general agreement that a reform in the present system of local assessment and rating is long overdue. The system of national taxation in the United Kingdom is based upon the principle that there should be as small a levy as possible imposed upon the necessaries of life. But the local taxation is levied upon houses, one of the most essential of all requirements. And it is well known that the smaller a man's income, the larger is the proportion of it that he pays for his dwelling-place, which means that he is rated in inverse proportion to his income. In a speech delivered in the House of Lords on February 23, 1921, Lord Parmoor went so far as to declare that, of all forms of contribution to public expenditure in force in England, the most anomalous and inequitable in its incidence is the contribution levied on ratepayers. The rates, he said, have not been assessed on the only intelligible principle—that of ability to pay—with the result that two-thirds of the real assessable income of the country escapes contribution to services to which it should be liable to contribute. In the course of the same debate Lord Haldane, while pointing out that the line of demarcation between local and national expenditure was not easy to draw, agreed with Lord Parmoor that the time had come for a reconsideration of the whole basis of local taxation so that people would contribute according to their ability to pay for local services. Agreement is not so easily reached when specific proposals for reform are put forward. The suggestion of a local income tax, for example, is met by strong objections. How much of the income made by a firm with premises in Manchester is actually made in Manchester? In nearly all areas, it is said, the largest ratepayers are railway and canal companies. How would it be possible to find out how much of the profit of the London and North Western Railway Company is made in Manchester? Then there is the problem of the man who makes his money in a big city and lives outside it in a district that is under some

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other local authority. The suggestion that the municipalities should be encouraged to make trading profits for the relief of the rates is also one that will not carry very far, for only a very sanguine man could expect any large profits from municipal trading concerns for many years to come.

On the whole, the conclusion seems to be that it will be impossible to devise a fairer system than that of assessing rates on property, but with such modifications of the existing system as will insure a more equitable assessment. It is therefore not surprising that there has recently been a revival of the proposal to rate land values. In Manchester a few months ago the city council agreed to promote a bill seeking power to rate 5 per cent of the capital value of land, whether in use or not, in order to abolish other forms of rating. It was estimated that the capital value of land in Manchester would amount to £100,000,000. Taking 5 per cent of this as basis for levying rates, there would be an assessable value of £5,000,000. On that assessment a rate of 6s. 8d. in the pound would provide amply for all the requirements of the city. The argument in favor of this scheme is that there is a gread deal of undeveloped land whose value is not represented by its present rent, but that this value would be brought into account by the proposed method of taxation. A new source of income would be taxed in the shape of wealth which is in existence as measured by selling prices in the market, but is not in full use as represented by the rents that are now being paid. Moreover, at present every new building, great or small, every improvement to a house, every addition to a factory, is so much addition to the rateable value and is accordingly an increased burden on the owner or occupier, with the result that, with rates at their present figure, this is a very serious deterrent to building. The taxation of the site value, if it could replace the whole of the rates on building, would sweep away this obstacle to the builder's enterprise. The landowners would no longer escape their fair share of the contribution to the local services, and industry would no longer be penalized. The endorsement of such a plan by the Manchester city council seemed a notable victory for the single-taxers, but to their great disappointment it was abandoned at a

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later stage, when the members had before them a concrete plan in the form of draft clauses in the bill. The resolution to confirm them was then defeated by 56 votes to 50, and the situation therefore remains as it was.

So drastic a change is likely to meet the opposition of powerful interests wherever it is advocated, so the ratepayers cannot reasonably expect relief in that direction. Any proposal, however, for easing present conditions by shifting the burden to other shoulders will necessarily have a stiff fight before it in order to win through. But with the apparent impossibility of making any substantial reduction in the expenditure of the local bodies, it can only be by some readjustment of the present system of rating that the approaching deadlock can be avoided. As the pressure increases, public opinion may be expected to take more fully into account Mr. Greenwood's reminder of the huge sum now levied to meet the national expenditure. For if only the national taxation could be appreciably lessened, such local taxation as is necessary would be more easily and willingly borne.[1]

HERBERT W. HORWILL.

LONDON, ENGLAND.

[1] Since this article was set in type, the situation has had a sensational development in the imprisonment of the mayor of Poplar and several of the members of the town council for their refusal to levy rates which, they declared, the borough was too poor to pay. As a result of this incident there has been introduced into Parliament a "Local Authorities (Financial Provisions) Bill" for the purpose of affording relief to the poorer boroughs within the London area.

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STATE HISTORY I

IN the pageant of the arts and sciences the local historian does not figure brightly. He is tolerated only as a poor relation of the mighty scholars who chronicle the deeds of parliaments and armies, for it seems clear that since the whole is greater than the part, he who writes of one small section cannot be as great as one who writes of nations and the world. Now and then there is a flash of sympathy for some Old Mortality chiseling afresh the humble epitaphs of years gone by, but he is generally dismissed with something of contempt as an antiquarian, uncritical and queer, in whose myopic vision perspective has no part, and who painfully works out a futile record of the insignificant. If there is a spectacle more dreary to the average man than one of these, it is a number of them gathered for mutual congratulation as a local historical society, for it is charged that their interest in the past is incident to genealogy, which itself grows out of snobbishness and vanity.

Such is the common understanding and the common prejudice, and it is wrong. Many will remember that the local history of the United States has found a place in universities since the days forty years ago when Herbert Baxter Adams began to publish at Johns Hopkins the product of his seminar. The *American Commonwealths* followed shortly after, and in this enterprise some distinguished scholars were enlisted, Alexander Johnston, Shaler, Cooley, Royce, and others, though it might be remarked in no spirit of detraction that these early volumes seldom represented the main interest of their authors' scholarship. Mr. H. H. Bancroft's wholesale history of the western coast found no imitators. Such serious local study as was carried forward in the older states generally concerned itself with the colonial period, for not only had the somewhat distant past a stronger fascination, but in America where the earliest records are so full it is fatally easy to begin at the beginning and write forever on the opening paragraph. Respectable state history,

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full and balanced, could not be written without a broad basis of monographic works on localities and stocks, such as the universities and societies were slowly bringing forth.

Yet local history is a rewarding study. If through a prank of fate we might some day have over us, besides the food and fuel controllers of recent memory, a high director of our social policy, he might compel us to consider it. We are still, as the traveler John Bristed said a hundred years ago, the most "locomotive people" on the face of the earth, and while perhaps there is some economic gain in living here today and there tomorrow there is a moral sacrifice of good home sentiment. "To astract the mind from all local emotion", wrote Dr. Johnson, "would be impossible, if it were endeavored, and would be foolish, if it were possible." The study of the multifarious records of the valley where we come to live must in some degree enrich the associations of the hearthstone so as to make life more interesting and lovely; the tales of a grandfather that set forth its heroic and picturesque traditions are not to be despised by the historian, provided that the touch of truth has marked them. In local history the citizen finds use, in that it can reveal the origins and growth, and thus the nature, of the institutions and the social groupings with which he has to dwell and deal. Not many of us are called to build great empires or to wield the mighty forces of the world; in the humble occasions of the common life we need to know our neighbors and the special heritage we share, so that our labors for improvement, if and when we make them, may grow out of knowledge.

But in this study there is likewise scientific value, for in the smaller field of vision we can sometimes see the ordinary undistinguished individual in his relation to society and the little human group in its relation to the soil, the climate and the contour of the land. To say that the local historian is the microscopist of the body politic who discerns the structural relations of the man-cells, would perhaps suggest some false deductions; few historians would be as much impressed with biological analogies as Hobbes or Spencer. But by his labor, like the scientific specialist, he adds his item to the general

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store of knowledge. If thought through with industry and sympathy and wisdom there might result from it a masterpiece as authentic as a history of the world. As the Reverend Gilbert White could win a universal gratitude with the *Natural History of Selborne*, so another with as clear a head and great a heart might do likewise with the human history of that same small Hampshire village. It was considerations such as these, no doubt, that led Dr. Jameson to say so justly, "Local history is national history locally exemplified." A recent writer, Professor F. M. Fling, has denounced this piling up of instances from which to generalize: "If we are interested", he declares, "in what past social facts have in common, in the way in which social facts repeat themselves, if our purpose is for generalization, or laws concerning social activities . . . the result of our work is sociology, not history." But there are many scholars who are under a concern to understand the American spirit; and without making themselves ridiculous with Bucklean laws, they will, no doubt, go on comparing as many of these records as they find to see how man has lived his life in our various environments; the study of local history may open up the past to modern methods of survey, and bring to light the customary facts of daily life which so easily escape the rolls and registers. It binds the speculative reason close to the concrete. If this be sociology, make the most of it.

Professor F. J. Turner has called attention to the need of studying our history by sections, but maintains that geographic units—river-valleys, plains, peninsulas—should be taken as the bases, for these determine the course and character of settlement. The political divisions known as states, oftentimes laid out in straight lines by surveyors, he remarks, are generally artificial and do not mark off coherent social groups. Scores of good examples could be given to support his main contention that culture masses flow and settle without regard to the political map, but he would, no doubt, readily admit that the study of state history must precede or at least accompany these researches, as it is in the action of the state that the voice of the people has found political expression. Through the constitutions, laws and practices of states, we learn much of the

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thought of citizens, though by no means all, so that the state forms a convenient unit to consider. By comparing the internal development of nearby states we come to some approximation of the ideas and habits of a larger section; the study of sectionalism within the states as expressed in elections and debates may reveal the many groups crossed by state boundaries. Thus by widening or narrowing our range of vision we come through state history back to river-valleys and the like.

The American history that "every school boy knows" is the history of Congress and the Presidents with some attention to the generals and a hasty paragraph or two upon the opening of the West. The writers are particular enough about each separate colony before the spring of 1775, indeed the text-books have quite generally neglected to point out the features common to them all. But when Washington has taken up his sword beneath the Cambridge elm, or at least when he has taken the presidential oath in New York City, all attention is suddenly refocused, first on Philadelphia for a few years and then for all time on the District of Columbia. The result is strange distortion. Foreign affairs, the conduct of the territories (especially with reference to slavery), debates upon the tariff, have been reviewed with a laborious minuteness; the reader comes to think, for instance, that from 1789 to 1876 the ordinary citizen's table talk must have been almost exclusively devoted to the assertion and the challenge of the federal authority over states. What constitutes a large and interesting part of the history of European countries somehow got left out. The suffrage, the guaranties to labor, the organization and control of business, canals and highways, the relations between church and state, education, crime and punishment, the mandates of the public conscience in respect to liquor, lotteries and sport, and other concerns of every individual, are matters of state legislation; even the tariff, in the close view, though they laughed at General Hancock for saying it, is in truth a local issue.

As to the dignity that comes from people, wealth and space, our states cannot be overlooked as unimportant subdivisions. It would take three Denmarks to compare with Pennsylvania in size and population; California outmatches Norway by a quarter

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according to these standards, without considering the superiority in wealth; Ohio has more people than Australia; Texas more than Ireland, while eight Emerald Isles could be packed within its borders. Certainly communities of this importance deserve the serious attention of historians, when the *Victoria History of the Counties of England*, planned and executed with the best ideals of scholarship, can allot eight huge volumes to Lancaster alone. But quite apart from what they may demand for their own sake, the student of our federal politics cannot neglect the states. Great careers are not begun in Washington; for the first phase of the national leader we must search the records of his state to find the interaction of his personality and his environment in the formative years of youth and early manhood. How can one understand Calhoun's extraordinary theory of concurrent majorities without knowing of the compromise of 1808 in South Carolina? Or Roosevelt's view of the judiciary in 1912 without referring to the contests in the New York legislature thirty years before? National movements oftentimes grow out of situations in some state or states. How can one comprehend the Free Soil Party without a knowledge of the rupture in the Regency at Albany? Or the repeal of the Missouri Compromise without that of the Atchison and Benton wars at home? Even our foreign relations are affected by conditions in the states; the treaty with England in 1842, the Chinese Exclusion Bill, the policy toward Mexico, have not proceeded solely from discussions on the banks of the Potomac. The *Congressional Record* requires annotation from the local papers. One may write the history of England from the point of view of London and so perhaps of France from Paris, but one cannot write the history of the United States, as Von Holst, for one example, tried to do, entirely from Washington.

If this is true of politics it is much more true of custom and opinion. One must have a thoroughgoing knowledge of the local tradition, which broods as the influence of yesterday over the community life, constantly confirming the old sanctions and compelling strangers to respect them or exert a mighty energy in opposition. In these concerns especially the historian must not generalize too hastily, but seek to sense the peculiar culture

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of each section in times past before he can trace by what processes of syncretism a general American taste has been developed—and then he may discover that for better or worse we have been agreed on but a few fundamental things. In different places words have had a different meaning; in some localities temperance in intoxicating liquors has meant a total abstinence, in others a moderate and occasional indulgence, and in still others merely the condition of being less drunk; the "sphere of woman" has varied with the latitude and longitude, and likewise the observance of the Sabbath, the zeal for schools, the sufferance of a family aristocracy, and many other matters. Only by studying local history can we understand how these traditions have been transplanted and the physical conditions that have made it possible. Eli Thayer could carry New-Englandism out to central Kansas, but it changed a bit. What would have been the issue if, according to another plan he recommended, he had carried it into Virginia. Those Puritan saints who settled on the shores and hills of Massachusetts and Connecticut could make a mighty effort toward a perfect Christian commonwealth, but not so those who went to Providence Island in the Caribbean Sea.

In the last two decades, state and local histories, it is true, have fallen from the presses every year, but their bulk has been more striking than their substance. With steel engravings at a hundred dollars and half-tones at half price, one easily bought what fame they could furnish. Lee's *New Jersey*, Lyman's *Oregon*, Gue's *Iowa*, and Morgan's *Connecticut*, though made to sell, were of a somewhat better order, while Randall and Ryan's six sumptuous volumes on Ohio were even more ambitious in appearance and certainly more valuable in text. But these books were all exasperating to the scholar: they had no notes or bibliography to aid in more research; they included anecdotes and legends of a doubtful authenticity; they tapered badly in the nineteenth century; and, saving Dr. Randall from the gentle malediction, one can say that their authors made but little contribution to American history. The later volumes of the *Commonwealths* improved upon their predecessors, but, with their limits of space, most of them were sketchy. Sometimes

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a work appeared revealing artistry as well as insight, like Colonel Alexander's history of New York State, and in at least two cases histories that commanded great respect for their extent and erudition, Alcée Fortier's *Louisiana* and Houck's five volumes on *Missouri*. But with the growth of state and sectional societies as well as university research through the West and South, it was expected that the historians of those regions would develop and present their product according to the highest standards of the guild.

According to the *Handbook of Learned Societies* issued by the Carnegie Institution, there are a great number of such devoted to the study of history. In the case of many the adjective is somewhat inappropriate, but for the most part their purposes are fine and wholesome; one must not contrast them with perfection, but rather with a void. In Massachusetts alone, there are a hundred, more or less, with at least one local society, the Essex Institute, standing as a model for energetic and discriminating publication; the Historical and the Colonial Societies of Massachusetts are academies in the best sense, the publications of the former, which is thus older by a century, forming a small library in themselves. Throughout the East to join an historical society has too often been a gesture of social aspiration; names were added, but such infusion never stayed the course of dry rot. Too often, it is true, their historical interests did not come nearer than the eighteenth century, and though much ore remains unmined in this older field, there has been a loss for this self-limitation. But they have influenced the states to better care of archives, have by assiduous collection saved much source-material from loss, and have made much available for all time by publication. In Pennsylvania, especially, have local societies made their contribution: those of Lancaster county, the Wyoming valley and the Pennsylvania Germans, having each a score or more of volumes to their credit, while the state society in Philadelphia, with its large building, its museum, its hundreds of volumes of bound manuscript material, its excellent magazine, has been a stimulus to scholarship past all calculation. The library and cabinets of many of the eastern societies are comfortably housed in monumental buildings,

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as in New York and Baltimore, or in old mansions of intrinsic interest, as the war-time home of the Lees in Richmond, where the Virginia society is domiciled.

Generally speaking, in this section of the country the societies have been entirely self-supporting in all of their activities, receiving nothing from the state, though some exceptions may be noted. The society of New Jersey, after a long and arduous campaign, induced the state to provide for the publication of its colonial archives, and was itself appointed as the agency of their production, with a suitable appropriation year by year; the Maryland society, and for a time that of New Hampshire, have rendered similar service, while that of Maine has had a subsidy for the editing and printing of the twenty volumes of the Baxter manuscripts which have so far appeared. South of the Potomac there has lately been displayed the energy and intelligence in historical publication that has characterized the "new South" in many of its enterprises. In 1903, about the time when Georgia, under ex-Governor Candler, began her splendid feat of issuing nearly thirty portly volumes in six years—North Carolina created her historical commission to collect or copy all important source-material relating to the old "North State", publish with proper editorial aid as much as possible of archives and monographs, diffuse historical information broadly through the commonwealth and commemorate with adequate monuments the storied places of her history. The success of this commission under its secretary, R. D. W. Connor, has been so notable that some other states, for example, Michigan, have adopted it. Alabama in 1901 set up its State Department of History and Archives, dividing labor with the state association, a plan adopted the next year by her neighbor Mississippi and in 1904 indorsed by the American Historical Association. Here we see the state and interested citizens in a noble partnership to discover and present historical truth. But it is in the Middle West that we shall find the best example of such enterprise.

In the Mississippi valley there are of course some important organizations engaged in historical research and publication, which receive no tribute from the taxpayer, like the Filson

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Club of Kentucky, the three large associations in Ohio, and everywhere a host of those designed to serve their small localities, but nearly all the state societies have a governmental subsidy and are considered trustees of the public. In Iowa, indeed, where there is a historical department which has its library, museum, and permanent staff exactly like the state society, the latter has its annual appropriation notwithstanding; the rivalry between the two, it may be said, produces a storm of publication that must astound the ordinary citizen. The output of the society, more or less simultaneous, includes a quarterly journal, a monthly magazine, independent series of public archives, biography, economic history, social history, applied history, the chronicles of the world war, besides miscellaneous publications and bulletins of information. And under the superintendence of Benjamin F. Shambaugh high qualitative standards are not sacrificed to needs of mass production. It must be said in partial explanation, that here, as in a number of the western states, there is a close connection with the state university, in whose buildings it is housed, and that we see at work the faculty of history and political science and its graduate students, as well as the society's own paid assistants and its general membership—a university extension in the cause of history.

There is a similar relation in Nebraska, Texas, Washington, North Dakota, and in Missouri, where the society and its superintendent are given room in the university library. In Indiana, Dr. Esarey, whose interest in state history is illustrated in his excellent volumes recently completed, has contributed to bring the association nearer to the university, which now issues the state historical magazine; the state commission of Michigan now has a university series inaugurated by a full and scholarly dissertation on the economic and social beginnings of the state, by Dr. George N. Fuller, the secretary of the commission and the society. In Minnesota there are relations with the university and the state, but the association does not have to beg space in college halls or in the attic of the capitol. Housed in its new half-million-dollar building, and enjoying an annual income well over thirty thousand dollars from the state and private gifts, it not only gathers newspapers from all the counties, buys material

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to make its collection on genealogy and the Scandinavian-Americans the most notable in the country, and publishes selections from its sources, but under the direction of its superintendent, Professor Solon J. Buck, it is sending its field agents to survey localities to see how valuable historical matter may be found and kept, for example the full record of each town's activities as affected by the world war. Together with the historical agencies of five other northwestern states the society shares the cost and benefit of a calendar now being made of all manuscripts in Washington that bear upon the history of that region. It stimulates the interest of the schools in local history, but in this respect it is not distinguished from the other western state societies and those of the counties. A news item of the current year may serve as an illustration as it shows the fruit of such endeavors in another state:

> School children of McLean County, North Dakota, will finance the purchase of the site of Fort Mandan where Captain Meriwether Lewis and William Clark spent the historic winter of 1804–5 with their expedition to the Pacific Coast. Each school will stage a dramatization of the story as furnished by the County Superintendent of Schools, the receipts to be used to cover the purchase, and the children will then give the site to the State for a State Park.

The State Historical Society of Wisconsin is usually acknowledged as approaching nearest to the ideal institution for encouraging the development and understanding of local history. Most that has been claimed for others here applies with greater force. Its quarters are extensive and expensive beyond those of its neighbor in St. Paul; its income is the largest in the country, as are its library and its faculty of administrative officers and research associates. Upon these last, of course, is settled much of the labor and the credit of the society's achievement; one knows not whether they should best be likened to the prebendaries of a collegiate chapter or the staff of professional coaches of a great amateur team, for while they do the offices of custody, research and publication, they stimulate and counsel the host of citizens who at one time or another discover a taste for historical investigation. The mutual aid of such

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permanent leaders, the body of enthusiastic laymen who make up the membership of the society together with their numerous allies throughout the local organizations, and the university, all in part sustained and superintended by the state—this seems, where it is possible, to be the most promising means of fostering a historical consciousness in a community.[1] Dr. Lyman C. Draper was the superintendent from 1854 to 1886, single-purposed as a Jesuit, taking little for himself, but with persuasive zeal enlisting the support of legislators and philanthropists, and with wise discrimination building up the great collection of manuscripts, maps, books and newspapers; Thwaites, for twenty-seven years, and since then Quaife and Schafer, have enriched this library, until today many a historian by traveling thousands of miles to Madison can study the history of his own section better than he can at home.

In Ohio they send out their expeditions to measure mounds built by the early neolithic men; in New York they send field experts to identify the camp-sites of the Revolution by exhuming buttons dropped long years ago from coats of blue or scarlet. But in Wisconsin, as in the farther West, they search for the memorabilia of the pioneer. Twenty years ago at the dedication of the splendid home of the society, there stood by many who had been present at Wisconsin's birth some sixty years before. Materials are at hand to trace the whole history of a commonwealth, how one by one and group by group the wagons of the emigrant were driven through the woods and streams and over the vast sea-like prairies to the solitude of the middle border, and how by dint of hard toil, shrewd thought and suffering which disheartened many, intervales, "oak openings" and rolling plains were made the homes of civilization, with its schools and churches, mills and markets. This is a

[1] Men and women who have at once the conscience of the scholar and the communicable enthusiasm of the organizer are rare, and good editors have in several states been powerless to increase the number and spirit of their membership. State support has been alleged to put a damper upon spontaneity; it also sometimes prevents a society saying and printing what it believes to be the truth, because of political considerations. The New York State Historical Association is a good example of a society which leaves the field of considerable publication to the state department, and successfully encourages the study of history and preserves its memorials.

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noble theme and one that strikes quick to the heart of the pioneer's descendant. Hundreds of personal accounts have been gathered and published by the various organizations of the state, but this will not satisfy. The society now purposes to free itself from a reliance on chance data and in the new synthetic method which history has borrowed from the other sciences, and which must gratify the shade of Francis Bacon, it sets out to find as near the full truth as can result from human effort. It has distributed blanks with which it hopes to reach the owners of farm homesteads, asking for a description of the land according to government sections and lots, the name of the maker of the farm, the date at which ownership began, the origin of title as from the federal government, the state or a certain land speculator, the date of settlement with some contemporary proof or the testimony of survivors acquainted with the facts, the name of the present owner, a sketch of the pioneer with portrait if available, and photographs and description of the farm today. School teachers, high school pupils and others all over the state are being enrolled to interview pioneers and to aid in this historical census, and qualified students to gather certain collateral kinds of facts from the local records of churches, lodges, mercantile establishments and manufactories. The society is organizing a special salaried field service to direct this vast inquest, and by means of addresses and printed explanations is making clear the details of its method.

There exist for most Wisconsin counties for the period about 1870, maps and plat books giving the farmers' names and limits of their holdings, and a full record of a similar kind for 1915. If by a vast geo-social survey the society can produce the same for the basic forties, supplementing as they can the surveyors' marginal description of the original country as they laid out the townships, and using the record of the government sales, federal and state, to speculators or home-builders, there will be material for comparison. This will yield results on the changing size of farms, the shift of population and the displacement of Americans by immigrants from Europe. It will be used by the advanced historical students at the university in the preparation of monographs which the society now plans to

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publish, along with successive portions of the great body of data issued by towns and groups of towns. The topographical maps of the geological survey, whenever available, and the state soil maps of the various sections will be published for correlation. Supplementary studies of agriculture, manufactures, education, morals, politics, religion and public improvements will proceed in type townships under the local societies working along a standard method furnished from Madison.

> The social historian [writes the superintendent, Dr. Schafer] needs to know in detail, at least for typical areas, the conditions under which the several classes of lands were occupied and the types of settlers who occupied them. He needs to know both how the settlers dealt with the land under varying circumstances and how the land reacted upon the settlers economically and socially. Numerous special studies interpretative of Wisconsin and of American history wait upon the preparation of such a working basis as we have proposed.

He prints a fragment of a letter from Professor F. J. Turner, which illustrates the prophetic enterprise of that pioneer in the scientific history of pioneers:

> I should make in selected areas, detailed study of the correlation between party votes, by precincts, wards, etc., soils, nationalities and state-origins of the voter, assesment rolls, denominational groups, illiteracy, etc. What kind of people tend to be Whigs, what Democrats, Abolitionists, etc.? This can be ascertained by such studies, and it would be the first time such correlations have been worked out on any considerable scale.

Here is a scheme, whose plain recital needs no ornament to stir the imagination. Wisconsin's Domesday Book is not to be completed in a few months; it is thought that twenty years may be consumed in so great an undertaking. It is the "Wisconsin idea" and practice to send the state to school in the various courses of human interest. One pauses to consider the effect of this survey upon the hundreds of thousands of people brought into contact with historical method, with its emphasis on accuracy of first-hand information as a basis for conclusions. Having contributed each his humble share to the massing of

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the data, it may be safely said that they will read the resulting narratives with an understanding of what history means beyond that of any other people. Dr. Draper is reported to have traveled sixty thousand miles in search of historical material, on foot, on horseback, by stage, by lumber wagon, and by steamboat; now his society like the many-handed Vishnu reaches into every home, not for miscellaneous information, but for facts which fit together to make clear the truth. This state's activities are coordinated; one may speculate as to whether those of all the states could or should ever be organized together. The historical atlas now slowly under preparation by the Carnegie Institution seems a kind of harbinger of nation-wide surveys, but what the future may bring forth no man can say. We do know that a state has undertaken an unprecedented task. Schouler, Rhodes and H. H. Bancroft have left on record their opinion that a great historian must be rich in this world's wealth, for he must not only have leisure and books, but buy the services of others. There is still much truth in this, but they left out of reckoning the growth of universities with research professorships and seminary dissertations, institutions for investigation endowed by great philanthropists, the vast libraries with constantly enlarging manuscript and photostat collections, and especially the great cooperative effort of the people themselves. Skeptics may demur, for only the beginning has been made even in Wisconsin; but if this plan so heroically conceived should finally fail, its very bruiting has enlarged the field of history.[1]

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[1] The recent historical publications of Illinois will be the subject of a second and concluding article in the next number of the POLITICAL SCIENCE QUARTERLY.

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NEW YORK CITY POLITICS BEFORE THE AMERICAN REVOLUTION

DURING the half-century preceding the outbreak of the American Revolution, the ebb and flow of democracy in the English colonies was discernible in the municipal elections held annually in New York. Only in this city was suffrage granted with any degree of liberality. A survey made by the author shows that about ten per cent of the total white population actually voted at the polls, whereas in Philadelphia, even under the moderate rule of the Quakers, only two per cent of the population exercised this right.[1] The period from 1730 to 1776, the "Golden Age" in the history of New York, is fully described in public documents kept by provincial and municipal officers and in newspapers, and broadsides written by those popular leaders who formed the advance guard of the Revolutionary movement. Hence a study of the economic and political tendencies in these early municipal elections as reflected in the contemporary records should prove of interest. On September twenty-ninth, Michaelmas Day, one alderman and one assistant were elected to the Common Council, the municipal legislature, by the voters of each of the seven wards. These electors were either "freeholders" or "freemen" of the city. The former were holders of property valued at over forty pounds; the latter were city residents enrolled as members of the municipal corporation and engaged in specific trades such as carpentry or bakery. The electors in casting their votes naturally were influenced by the interests of the economic and religious groups to which they belonged. Classified according to occupation, they fell into six divisions, as follows: merchants, crown officers, landowners, lawyers, shopkeepers and artisans. According to denomination, they were usually affiliated with one of the following: Anglicans, Dutch Reformed, Presbyterians, or Lutherans. Catholics, Jews and Quakers

[1] *New York as an Eighteenth Century Municipality*, Part II, p. 46.

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played practically no rôle in the city's affairs. A study of local politics from 1734 to 1775 discloses an ever-changing alignment of these factions in their efforts to secure political supremacy.

The period under survey opens with the momentous municipal election of the year 1734 in the administration of Governor Cosby. Unpleasant relations existed between the governor and the corporation of New York due to the former's attack upon the chartered rights of the city,[1] but despite Cosby's attitude of hostility toward the municipality and all liberal government, the merchants and the upper set of the city in general favored further conciliation with the governor. In turn, he showed himself willing to unbend toward the merchant class, and thereby an understanding between the two was effected. The result, however, was a violent outburst on the part of the artisan class against the existing government by merchants. The contest was marked with the same bitterness as in the days when Leislerians and anti-Leislerians were arrayed against each other. The new factions were drawn along lines more or less identical with the old, the popular party opposing the exactions of a British governor, the court party supporting him. Each faction had its leader in the Common Council, the former being represented to some degree by Gerardus Stuyvesant, the latter by Recorder Francis Harison.

The recorder became the object of many bitter attacks from supporters of the popular party, and, possessing a temper not easily controlled, he was often drawn into rash conduct. In February, 1734, there was an occurrence which added further confusion to the already excited state of public opinion. A threatening anonymous letter was found one morning, slipped under the door of James Alexander, a prominent lawyer noted for progressive tendencies.[2] Many citizens of fertile imaginations were thoroughly convinced that the lives of the popular leaders were in danger. The city was further startled by the news that Mayor Robert Lurting had recognized the handwriting of the threatening epistle as identical with that of Recorder

[1] Edwards, *op. cit.*, p. 20.

[2] Rutherford, *John Peter Zenger*, pp. 34-35.

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Harison. Popular antipathy against him increased manifold and he deemed it prudent to absent himself from Common Council meetings at the City Hall.[1]

Cosby was fully aware that the attacks upon Harison were really aimed at him, and in an attempt to rally the friends of the court party, he tendered a banquet to a number of prominent New York citizens. After partaking of the governor's hospitality, most of the guests signed their names to an address lauding the efforts of the governor in behalf of the merchants of the province, and, in general, supporting his administration.[2]

This address had both an economic and a political significance. It was entirely an expression of the views of the merchants, being openly termed "the humble Address of the Merchants, Freeholders and Inhabitants of New York City", and mainly concerned with the condition of "Trade, of its Discouragements it labors under, and the Causes of decay", together with suggestions for improving it. The political effect of this conference between merchants and governor was disappointing for all parties concerned, for instead of strengthening the court party, it ruined the political careers of several prominent leaders. The aldermen and common councilmen, save Gerardus Stuyvesant, were among the signers of the address.[3] By this act they virtually pledged themselves as adherents of the governor, and so forfeited support from the popular party for re-election in the autumn.

Not since the disputed election of 1701 had the city beheld such an exciting aldermanic campaign. Every Common Council member who had signed the address to Cosby and who now sought re-election found himself opposed by a candidate of the popular party,[4] for in every ward of the city party spirit was roused to fever pitch. The court party with the support of the governor, the wealth of the merchant class, and the influence of Bradford's *Gazette*, exerted every effort to retain the aldermen

[1] *Minutes of the Common Council of New York*, vol. IV.

[2] *The N. Y. Gazette*, May 27, 1734.

[3] *N. Y. Journal*, Oct. 7, 1734.

[4] Smith, *History of New York*, vol. XI, p. 9; *New York Colonial Documents*, VI, p. 22.

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and councilmen in their seats. But they encountered an aggressive opposition, led by William Smith and James Alexander, upheld by the lower artisan class, and aided by Zenger's *Journal*,[1] now the mouthpiece of the popular party.

It was in this contest for the election of city magistrates that Zenger published several songs and letters which stirred the ire of Cosby.[2] These documents make clear the real significance of the struggle. It was more than a mere political fight; it was a bitter class conflict between the wealthy merchants and the poorer artisans, and the deep passions which accompany any movement against the upper class of society were not lacking. In one of Zenger's satirical articles, a number of workingmen assemble to discuss means of improving their condition, which, it is claimed, has been rendered almost intolerable through the oppression of the government and the injustice of the courts. The presence of the members of the Common Council at Cosby's banquet is indirectly mentioned and it is held by all that, "We are not so rich as others, but I dare say as honest, and scorn to sell our Liberties for a sop of Bread or a Dram of Usquebaugh."[3] In another paper, Zenger has a fictitious personage, Colonel Quondam, give advice regarding the coming election.[4] The writer, commenting on the general dissatisfaction with the city magistrates then in office, exhorts the voters "to chuse no Courtiers, or Trimmers; or any of that vain Tribe that are more fond of a Feather in their Hats, than the true interest of the City. Nor to chuse any dependents on them." Declaring "a poor honest Man preferable to a rich Knave", he urged citizens to elect "Men of sence and Honesty".

Election day, September 29, brought complete defeat for the court party. In every ward except one, the popular candidate was victorious over his opponent, and even this district, where the mercantile interests were heavily intrenched, gave the court party a majority of only one vote. But a single former mem-

[1] *N. Y. Journal*, Oct. 7, 1734.

[2] Timothy Wheelwright's *Two satirical letters on the election for aldermen*, New York Public Library, Broadsides, 1734.

[3] Broadside, dated 1734, in N. Y. Public Library.

[4] *Ibid.*

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ber, Gerardus Stuyvesant, who alone was acceptable to the popular party, was re-elected.[1] The democratic character of the new Common Council is well shown by the occupations of the new members as contrasted with those of the former aldermen and common councilmen.[2]

ELECTION OF 1734.

Ward.	Members of Common Council elected in 1733.[3]	Vote in 1734	Occupation.	Members elected in 1734.	Vote	Occupation.
Dock.						
Alderman.	John Cruger.	6	merchant	Stephen Bayard. .	77	merchant
Assistant. .	John Moore.	38	merchant	John Moore[4] . .	38	merchant
West.						
Alderman.	Hermanus Van Gelder. .	5	unknown	William Roome. .	35	painter
Assistant. .	John Chambers	5	lawyer	Henry Bogert . .	35	baker
South.						
Alderman.	Frederick Philipse[5]. . .	45	merchant	Simon Johnson. .	49	gentleman
Assistant. .	Isaac De Peyster[6] . . .	45	merchant	Ede Myer. . . .	49	unknown
North.						
Alderman.	Anthony Rutgers[7] . . .	37	merchant	Johannes Burger.	38	bricklayer
Assistant. .	Garret Roos.	37	merchant	Evert Byvanck. .	38	baker
East.						
Alderman.	John Roosevelt	12	merchant	John Walter. . .	107	merchant
Assistant. .	Petrus Rutgers.	17	brewer	Charles Le Roux.	99	jeweler
Mont-gomerie.						
Alderman.	Johannes Hardenbroeck.	1	unknown	Christopher Fell .	30	bolter
Assistant. .	Abel Hardenbroeck . .	1	unknown	John Fred. . . .	30	laborer
Out Ward.						
Alderman.	Gerardus Stuyvesant[8] . .	..	merchant	re-elected	..	. . . .
Assistant. .	Thomas De Key	..	unknown	John Waldron . .	5	baker

The joy of the liberals was unrestrained, and casting prudence aside they expressed their feelings without any respect for the

[1] *N. Y. Journal*, Oct. 7, 1734.

[2] Occupations taken from *Freemen of New York*, collections N. Y. Hist. Society (1885).

[3] *M. C. C.*, IV, 199; IV, 229.

[4] His opponent Wessel Wessels received 37 votes.

[5] Not a candidate for re-election.

[6] Was candidate for position of alderman. Peter Low, candidate for assistant alderman, received 45 votes.

[7] Rutgers and Roos at first received 51 votes as against 46 for Burger and Byvanck but a recount gave the election to the last two.

[8] No opposition.

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dignity of the governor's position. In an issue of the *Journal* Zenger printed an account of the election, which he boastfully claimed "was carried against the Governor's Interest".[1] If this statement was intended to rouse the governor's ire it fully succeeded in its purpose, as Cosby's own words proved. At the installation of the mayor, the aldermen and the assistants, after the oath of office had been given, the governor addressed the assembled magistrates and denied publicly that he had taken any part in the recent election.[2] Further abuse was heaped upon the now thoroughly enraged governor in two "scandalous songs", replete with coarse references to the defeated members of the Common Council and to the executive himself.[3]

The events which followed form a well-known episode in American colonial history. These songs or ballads, together with several issues of the *Journal*, were condemned by the governor's council and the Supreme Court.[4] The hangman was given orders to burn them, and the city magistrates were commanded to be present when this was done. To expect the attendance of the aldermen was indeed unreasonable, for Zenger's very press had been instrumental in carrying their election. Therefore, when the sheriff appeared and presented the arrogant order of the Council to the magistrates as they sat in the Court of Quarter Sessions, they flatly refused even to enter it in their minutes. Recorder Harison alone defended the governor. The court went further, not permitting the hangman to burn the papers, on the ground that he was a municipal officer, and prohibiting any member of the corporation from attending the ceremony.

The contest for aldermanic seats did not end with the election, for several defeated members of the Common Council attempted to hold their places by fraudulent means, though beaten at the polls. As the city government continued in the hands of the outgoing members until the fourteenth of October, when

[1] *N. Y. Journal*, Oct. 7, 1734.

[2] *N. Y. Gazette*, Oct. 14, 1734.

[3] Rutherford, *John Peter Zenger*, pp. 38–39; also *A Brief Narrative of the Case and Tryal of John Peter Zenger, Printer of the New York Weekly Journal*, p. 4.

[4] Rutherford, *John Peter Zenger*, pp. 39–41.

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the newly elected officers were sworn in, the plan to deprive the popular candidates of their victory was quite feasible. The defeated alderman of the East Ward failed to report the count in his district; Alderman Rutgers falsely returned himself and his assistant as re-elected; and, lastly, Christopher Fell was restrained from assuming the office of alderman on the ground that he was neither a freeman nor a freeholder of the Montgomerie Ward, from which he had been elected.[1] The popular party, however, overcame these obstacles by finally forcing the existing board to recognize all new members.[2]

The governor took the defeat of his party very seriously and regarded it as of sufficient importance to report to the Lords of Trade as follows: "I must not omit to inform your Lordships that a misled populace in this City had in September last elected their annual Magistrates and chosen their Aldermen and Common Council, out of such as were followers of the leaders, e. g. William Smith and James Alexander."[3]

The election of the following year placed the popular party in complete control of the Common Council. John Moore, the only conservative who had survived the reform wave of 1734, was succeeded as assistant alderman of the Dock Ward by Gerardus Beekman.[4] The board was thus even more nearly unanimous in opposing Governor Cosby, and this spirit is shown in a testimonial to James Alexander, signed by eleven of the fourteen members of the Common Council.[5] Alexander at this time was undergoing severe persecution by Cosby; so any support given him was a direct attack upon the governor.

In 1736 provincial politics were again injected into the affairs of the city. With the death of Governor Cosby in that year a dispute arose as to a temporary successor pending the arrival of a new executive from England. The honor was claimed by two members of the legislative council, Rip Van Dam and

[1] *M. C. C.*, IV, 218, 221, 227.
[2] *Ibid.*, IV, 223, 229.
[3] *N. Y. Col. Docs.*, VI, 23.
[4] *M C. C.*, IV, 219.
[5] *Ibid.*, IV, 313-314.

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George Clarke. The corporation of New York became involved in this controversy with the approach of September 29, the day on which the provincial executive appointed the mayor, sheriff and coroner of the city for the ensuing year. Both Van Dam and Clarke claimed the right of appointment, and the Common Council was in a serious dilemma, not knowing which to recognize. The board was strongly in sympathy with Van Dam, who, as a leader of the popular party, had been active in resisting the autocracy of the late governor.[1] Van Dam also had the solid support of the Dutch element in the city; so that a violent anti-British feeling was developing with dangerous rapidity. But the aldermen and common councilmen were fully aware that Clarke's position in every respect was the stronger since he had the almost unanimous support of the governor's council, which body alone could ratify appointments.[2] Besides, the garrison was at Clarke's disposal and to oppose him would well-nigh constitute treason.[3]

In this crisis it was necessary to follow a prudent course, and the Common Council was not eager to take the responsibility of deciding between Van Dam and Clarke. Instead, certain members of the Board planned a popular referendum, by which each alderman was to ask the advice of his constituents regarding this matter on election day.[4] This was a clever move on the part of the liberals, who were confident that the majority of the electors would support Van Dam. Zenger's press was again called into service by the popular party, and on the day before election, a broadside was issued reminding the voters of the valuable charter rights of the city.

It is difficult to estimate the success of this plan, for our sources of information conflict. Clarke, in his report to the

[1] Clarke was fully aware of these sentiments, for he thus wrote the Board of Trade in England, "The Majority of the Corporation being entirely at the Beck of the Faction and for the most part men of Low class, were easily persuaded to their measures." *N. Y. Col. Docs.*, VI, 7, 8. For a discussion of the racial aspect of this controversy see Becker in the *Amer. Hist. Rev.*, VI, p. 58.

[2] *Jour. Leg. Council.*

[3] *N. Y. Col. Docs.*, VI, 80.

[4] *N. Y. Journal*, Sept. 27, 1736.

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home government, claimed that the referendum was a failure since it was signed in but two of the seven wards in the city.[1] He further stated that "in some of the wards the alderman refused to offer it to the People and tho it was notwithstanding spoken of to them by others yet the people would not sign it." This statement is contradicted by an account of the election given in the *Philadelphia Gazette*, which contains the following item: "the several Aldermen of the six inner Wards asked the Advice of their Electors what they should do in this juncture, to wit: whether they should accept of a Mayor, etc. from Mr, Van Dam, or from Mr. Clarke? And the Advice was, to accept of them from Mr. Van Dam. We have not heard, that there was one Voice to accept of them from Mr. Clarke."[2]

Whatever question may exist regarding the decision of the referendum, the popular party undoubtedly carried the elections for members of the Common Council. The contemporary historian, William Smith, Jr., asserts that "Van Dam's party prevailed", and, in fact, the minutes of the Common Council show that the magistrates of the previous year were all returned.[3] The *Philadelphia Gazette* states that this was accomplished "without so much as one dissenting voice against any of them except in the Dock Ward".[4] Here Beekman was elected as assistant alderman over Wessels, but by only a narrow majority.

With the municipal elections over, interest was again focused on the proceedings of Clarke and Van Dam. The Common Council urged a postponement of all appointments, but Clarke, disregarding the wishes of the board, renominated the officers of the previous year, with the ratification of five members of the Legislative Council.[5] Thus Paul Richard was continued as mayor, William Cosby as sheriff, and Richard Nicholls as coroner. On the same afternoon, Rip Van Dam went through the legal steps of appointing the city officers. Claiming the powers

[1] *N. Y. Col. Docs.*, V, 1, 78.

[2] *Philadelphia Gazette*, Sept. 30, 1736.

[3] *M. C. C.*, IV, 345–7; Smith, *History of N. Y.* vol. XI, p. 35.

[4] *Philadelphia Gazette*, Oct. 7, 1736.

[5] *N. Y. Col. Docs.*, VI, 78.

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of president of the Legislative Council, he summoned its members, but only Alexander appeared.[1] Together, these two appointed Cornelius Van Horne as mayor, William Smith as recorder, Richard Ashfield as sheriff, and the same man for coroner as had been selected by Clarke. The Common Council, in this difficulty, decided to give both parties an opportunity to present their claims at a public hearing, and for this purpose requested all attorneys practising in the mayor's court to attend the next meeting of the Common Council at the City Hall.[2]

New York was now on the brink of civil strife. Many older inhabitants, who remembered the exciting days of Leisler's rebellion, were quick to see a parallel between events in 1691 and 1736. Once more the Fort, at the lower end of Manhattan Island, gave a military setting to the political drama, for to this stronghold Clarke prudently retired with all the officers and men of the independent companies, and a strict watch was maintained both day and night.[3] According to Clarke, it was the presence of these two companies of the king's forces alone that restrained the "faction" from taking up arms.[4] Fortunately, peace was preserved by the timely arrival of a ship bearing a commission for Clarke.[5] On the fourteenth of October his appointees for the municipal offices were duly sworn in, their rivals having manifestly now no legal title whatever.[6]

Clarke did not prove a very generous foe. Instead, he pursued a vindictive policy toward his political enemies. He recommended that James Alexander, William Smith and Lewis Morris, Jr., together with Zenger, be sent to England for trial.[7] The charge against the first was that, as member of the Legislative Council, he had assisted Van Dam in the selection of municipal officers. Against the others Clarke could only complain that they had circulated seditious papers, as evidence of

[1] Smith, *History of N. Y.*, II, p. 35.

[2] *Ibid.*, IV, 348; *Philadelphia Gazette*, October 7, 1736.

[3] Smith, *History of N. Y.*, II, p. 38.

[4] *N. Y. Col. Docs.*, VI, 80.

[5] *Gazette*, Oct. 11, 1736.

[6] *M. C. C.*, V, 349–351.

[7] *N. Y. Col. Docs.*, VI, 76.

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which the governor forwarded to the Lords of Trade copies of Zenger's papers.[1] Fortunately for the peace of the colony, no action was taken on Clarke's suggestions.

Although the leaders of the popular party thus escaped the charge of treason, the cause in general suffered a serious setback as a result of this controversy. Clarke exultingly asserted that the "faction being broke, the people grow daily more sensible of the danger that Morris and a few more brought them into".[2] Undoubtedly the conservatives increased their power through the victory of Clarke, for the majority of citizens were unwilling to see the scenes of Leisler's rebellion repeated. At the municipal elections in the following year, the effects of the conservative reaction were visible, as three members of the Common Council, prominent in the movement against Cosby in 1734, were not returned.[3] John Moore, a firm conservative, regained his seat by defeating Simon Johnson, who had brought distrust upon himself and the popular party by accepting a provincial appointment from Clarke.[4] Due partly to the lieutenant-governor's intrigues, the prestige of the anti-court party for several years was very low, and there was little in local politics to arouse the enthusiasm of voters.

Governor George Clinton, who succeeded Clarke, seemed to have been unable to grasp the intricacies of colonial politics; at any rate, for a time he blindly placed his trust in Chief Justice James De Lancey, a conservative leader of unquestioned ability. Due to this alliance, the court party once more enjoyed a period of triumph. But this was destined to be short-lived, for it was presently shattered by a personal disagreement between Clinton and De Lancey. Whether this was due to a clash over the wine cup, as Smith asserts in his *History*, or whether it was the result of a divergence on the political principles of the two men, we do not venture to say, but the quarrel plainly had an effect on city politics and on the Common Council.[5] Mayor

[1] *Ibid.*, VI, 74.
[2] *Ibid.*, VI, 84.
[3] *M. C. C.*, IV, 386–7.
[4] Smith, *History of N. Y.*, II, p. 56.
[5] *Ibid.*, II, p. 100.

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Stephen Bayard and Recorder Daniel Horsmanden, both members of this body, cast their lot with De Lancey, becoming open opponents of the governor. He in turn retaliated by suspending both these gentlemen from the Legislative Council.[1] Nor did Clinton stop at this, for Horsmanden was removed from his office as recorder, and Bayard, when his term expired in September, 1747, was replaced by Edward Holland, formerly mayor of Albany, and active supporter of the governor.[2] As Holland had recently been debarred from his seat as assemblyman by the lower house, although returned by Schenectady, Governor Clinton also compensated him by an appointment to the Legislative Council.[3] In the Assembly, almost every member of importance was either a relative or a supporter of De Lancey, the only exception being Philip Livingston.[4] In 1747, the struggle between governor and lower house became violent. Seldom in New York has a chief executive been so abused by any legislature. With utter disrespect for the governor's position, the Assembly passed resolutions charging Clinton with misappropriation of public funds, forwarded most insulting messages to him, and even besmirched the governor's family honor.[5] Clinton himself was helpless before these attacks, and found his only solace in acquainting the home government with his troubles. Fortunately for the governor, he was supported by several of the old leaders of the popular party. These had not forgotten James De Lancey's espousal of the court faction when he presided at the trial of Zenger. Mistrusting the chief justice, James Alexander, Lewis Morris Jr., and William Smith, all tried veterans of the fight against Governor Cosby, came to the aid of Clinton.[6]

Meantime, as the younger generation produced men of ability, the popular party was regaining control of the Common Council. The Dock Ward returned two members of the famous

[1] *Cal. Coun.*, pp. 366–367.

[2] *M. C. C.*, V, 201.

[3] Smith, *Hist. of N. Y.*, vol. II, pp. 92–3.

[4] *Ibid.*, pp. 170–171.

[5] *Assemb. Jour.*, vol. II, pp. 130–131, 139–140, 149, 156, 206–221.

[6] Smith, *History of N. Y.*, vol. II, p. 168.

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Livingston family. In the East Ward, Cornelius Van Horne, candidate of Van Dam for the office of mayor in 1736, was elected, and in the North Ward, Leonard Lispenard, later deputy from the city to the Provincial Congress. An important member of the board during the fifties was John Morin Scott, an able lawyer and a leader in all progressive movements of the day.[1] The conservatives also had their representative on the board in Alderman Oliver De Lancey, brother of the chief justice.[2]

Directly after the middle of the century, occurred the King's College controversy, which was partly political and partly denominational in nature. By this time the old court party was primarily Anglican, for this denomination preached loyalty to the home government as one of its basic principles.[3] The former popular party became more or less identical with the Presbyterians, then increasing at a rapid rate. Their violent protest against restraints placed by governing bodies on religious freedom won for them the name of "the republican faction". In this contest the Anglicans were led by the De Lanceys, the Presbyterians for the most part, by the Livingstons, both families having members in the Common Council.[4]

During the Stamp Act troubles, no important partisan struggles occurred, for all parties and sects were united in opposing the home government.[5] For the time, the economic rivalry between merchants and artisans and the denominational jealousy between Anglicans and Dissenters were completely forgotten. But after 1765 a strong conservative reaction followed the radical movement. The violent acts of the unenfranchised mechanics and the artisan freemen caused many of the propertied class

[1] He was a founder of the "Whig Club", composed mainly of Presbyterians and other Dissenters, and probably a contributor to the *Watch Tower* and *Independent Reflector*, two publications violently opposed to Anglicanism. Jones, *Hist. of N. Y.*, vol. I, pp. 5–7. For account of politics in period, see also Becker in *Amer. Hist. Rev.*, VI, pp. 260–275, and Smith's "Political Parties" in N. Y. Hist. Society.

[2] Oliver De Lancey in a drunken brawl stabbed a citizen but secured immunity through the protection of his brother, the chief justice. *C. D.*, 6, 513–4.

[3] Flick, *Loyalism in New York*, pp. 9–10.

[4] Dunlap, *Hist. of the Province of N. Y.*, vol. I, pp. 395–396.

[5] Becker, *New York Parties*, p. 28.

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to desert the popular party.[1] Thus the court faction, which but a few years before the Stamp Act disturbances had included only the stanchest friends of the government, was now augmented by the return of the commercial interests.[2] This change in feeling was not without its effect on the city government. Several liberal leaders such as the Livingstons and John Morin Scott withdrew from municipal politics, whereas the conservatives secured the election of Gilbert Forbes and Elias Desbrosses.[3]

The provincial elections for the assembly in 1769 brought deep gloom to the popular party. The campaign was marked by unscrupulous tactics and base appeals in the effort to rally votes. The conservatives were successful in stirring up the Germans and Scotch-Irish in their favor; and, in calling for support upon the freemasons, merchants and Anglicans, they crushed the popular party, led by the lawyers and composed mainly of Dissenters.[4] In this election the liberals exhibited considerable weakness, polling but 650 votes in the city out of a total of 1515.[5]

The prestige of the popular party was now quite shattered, and from 1769 until the Revolution the conservatives made steady gains in the Common Council. Thomas Jones, a member of Trinity Church and destined to be one of the most conspicuous loyalists, became recorder.[6] Several magistrates of the popular party lost their seats and were followed by men of loyalist feeling, some of whom later became Tories.[7] Of these

[1] *M. C. C.*, VI, 393; VII, 41–82.

[2] Becker, *New York Parties*, pp. 31–32.

[3] Forbes was later a loyalist, Desbrosses was a vestryman of Trinity Church.—Dix, *Hist. of Trinity Church*, vol. iv, p. 577. See also "Memorial of N. Y. Loyalists", which contains the names of several former members of the Common Council.—*N. Y. Geneological and Biographical Record*, XXI, pp. 180–185.

[4] Lenox Broadsides and Cards (N. Y. Public Library); Dix, *Hist. of Trinity Parish Church*, I, p. 264; Stone, *Hist. of N. Y. City*, p. 219; Becker, *Hist. of Political Parties; New York Mercury*, Jan. 9, 16, 23; Feb. 6, 1769, pp. 18, 19, 74, 75.

[5] Poll List.

[6] *M. C. C.*, VII, 192.

[7] *Ibid.*, VII, 233.

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Andrew Hammersley, a vestryman of Trinity, and John and Theophilus Hardenbrook, as well as the Brewerton family,[1] were well-known conservatives. Assistant Alderman Jacob Brewerton, despite the fact that he had been indicted and fined for malpractice in office, and had been denounced by Judge Ludlow as "a disgrace to the magistracy and to the people who elected him", was able to hold his place against Isaac Stoutenburgh, a prominent member of the popular faction.[2] In the midst of their struggle for enforcement of non-importation agreements, the patriot leaders made a determined effort to regain control of the Common Council. In the fall of 1770 they rallied their supporters to drive from office several of the Common Council members who had rendered themselves especially obnoxious to the popular cause. But all in vain, for the old Board returned with two minor changes among the assistants. Lieutenant-Governor Cadwallader Colden, then active chief executive of the province, expressed the joy of the conservatives in a letter to the home government, as follows: "It gave me particular satisfaction to find this Party entirely defeated last week in a violent struggle to turn out such of the elective Magistrates of the city as had distinguished themselves anyway in favour of Government."[3] In 1775 the last municipal elections of the colonial period were held, but neither side made any decided gains. In fact the voting was very light, due probably to the disturbed conditions then prevailing in the city.[4]

The conservative tendencies of the Common Council in the closing years of the period were reflected in the official acts of the city government. The Sons of Liberty addressed a petition to the city fathers for the privilege of erecting a liberty pole in a public street, but after a spirited debate the request was rejected.[5] The changing attitude of the board is also evidenced by its action regarding the Anglican Church. In May, 1770,

[1] Genealogical Cal., XX, 180.

[2] Broadsides, Sept. 15, 1773. N. Y. Hist. Society. Filed papers, Box VI, City Clerk.

[3] Colden, *Letter Book*, II, 229, N. Y. Hist. Soc. (1877).

[4] *M. C. C.*, VIII, 71, 107-8; *N. Y. Mercury*, Oct. 2, 1775.

[5] *M. C. C.*, VII, 203-204.

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the Common Council passed a motion to grant several water lots to the Established Church by a vote of nine to five.[1] The growing distrust of the populace on the part of the propertied and commercial classes was also expressed in the Common Council when the motion of Alderman Brewerton to close the doors of the chamber was passed by a vote of eight to five.[2] For years the Common Council had sat with open doors and attempts to close them had in the past been voted down.[3]

From this review of the political struggles in the pre-Revolutionary period, we have observed a change in the attitude of the city government toward the cause of democracy. We noted first the corporation's firm resistance to encroachments of colonial governors upon its chartered rights; but in later years a more or less subservient attitude. This undemocratic development is corroborated elsewhere than in the official acts of the Common Council. In 1736 Governor Clarke, referring to the political disturbances of his time, stated that "the Defection is chiefly confined to the City, where the Ring-leaders of the malcontents dwell."[4] In 1773 a revolutionary advocate wrote that patriotism "seemed to have taken but shallow root in some places, particularly at New York, where political principles are as unfixed as the wind. One year sees the New Yorkers champions of liberty, and the next, hugging their chains."[5] John Adams, after his visit to New York, declared that the political situation in Manhattan was a puzzle to him.

One explanation of this inconsistent attitude toward the liberal movement is to be found in the religious conditions of the city. From the outset, we saw that Anglicanism gave its support to the conservative side, which was, however, defeated by the anti-British party in the beginning of the period. This party derived its main support from the Dutch Church and was continued in power, despite occasional reverses by the Presbyterians, who were growing rapidly in importance. Had the

[1] *M. C. C.*, VII, 215–216.

[2] *Ibid.*, VII, 252.

[3] *Ibid.*, IV, 348.

[4] *N. Y. Col. Docs.*, VI, p. 80.

[5] *Diary of John Adams*, II, p. 346.

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Dissenters remained united, the British party would scarcely have secured the extensive control it wielded in later years. But unity among its opponents was broken and their strength dissipated by the partial defection of the Dutch Reformed Church. This was secured, to a large extent, by the policy of the British government. Where formerly the Dutch Church was oppressed, it now received many favors, such as charters of incorporation, which were denied to Presbyterians and to Lutherans.[1] In return for this more considerate treatment many of the Dutch gave a general support to the British government during the troublous times which preceded the Revolution.[2] The court party also gained the allegiance of many prominent Huguenot families, such as the Desbrosses and De Lanceys.[3] Thus the conservatives, having the united support of Anglicanism and further augmented by the wealthy element of the Dutch Reformed Church, in the end proved too strong for the Whig or popular party, which could depend only upon the Presbyterians.

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[1] *Eccles. Recs*, VI, p. 4179.

[2] Flick, *Loyalism in New York*, p. 10.

[3] Both these families had members in the Common Council. Gerona, "Impress of Nationalities on N. Y. City," *Mag. of American History*, pp. 45–46.

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THE PROBLEM OF CONTROL IN MEDIEVAL INDUSTRY[1]

THE problem of industrial relationships is assuming, under our present economic organization, ever-increasing importance. It is coming to be recognized that one of the most important functions of government today, in industrialized states, is the searching out and application of some permanent, or supposedly permanent, solution of the vexed questions involved in the relationships between employer and employed, and of both to the state and to the larger group known as "society". All manner of suggestions have been brought to bear upon this problem, and numerous expedients have been tried in its attempted solution, ranging all the way from the employment of the armed forces of the state in the suppression of labor groups to the use of arms by the "proletariat" for the overthrow of the state and the extinction of the "capitalist".

Among those who are now prescribing cures for our present social ills are some—and their number seems to be increasing—who advocate a search of the past to discover the healing nostrum. In the Middle Ages, these social philosophers maintain, one may find the type of an ideal industrial organization wherein were conserved the interests of the industrial groups, of the state, and of society as a whole. It is argued that the medieval industrial organization and the organs which regulated and controlled it were of natural growth, called forth to meet the normal needs of the population, in contradistinction to an organization abnormally stimulated and manipulated that the few may achieve their own selfish ends and amass wealth or secure power at the expense of the many. Most significant among such advocates of a reversion to the past are the National Guildsmen, or Guild Socialists of England, and a striking illustration of their point of view, expressed in its more ex-

[1] The substance of this article was contained in a paper read by Professor Evans before the American Historical Association in December, 1920.—ED.

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treme terms, has come recently from the pen of one of their spokesmen, Mr. A. J. Penty. In his *Guildsman's Interpretation of History*, the author thus sums up his argument:

> The danger that confronts us is precisely the same as confronted France on the eve of the Revolution. It is the danger that a popular though unconscious movement back to Mediaevalism may be frustrated by intellectuals whose eyes are turned in the opposite direction, and revolution be precipitated by the fact that the instinctive impulses of the people, instead of being guided into their proper channels where they would bear fruit a thousandfold, would be brought into collision with doctrinaire idealists who believe in economic evolution as it is not.[1]

Mr. Penty believes that the communal relationships which he finds were everywhere existent in the Middle Ages, furnish the explanation of the happy solution of the industrial problem.

But it is not alone those who would abolish the institution of private property as it today exists who would advocate a return to medieval conditions as a curative of present ills. In *An Essay on Medieval Economic Teaching*, George O'Brien advocates a return to medieval principles on quite other grounds. In large measure his book is written to combat socialistic theories and in maintenance of the thesis that the institution of private property was recognized as fundamental and its rights safeguarded in the Middle Ages. In his judgment, it is in the higher ethical standards that pervaded economic theory and business practice that the strength of the medieval period lay. "On the one hand," he writes, "we see socialists of various schools attempting to construct a Utopia in which each man shall be rewarded, not in accordance with his opportunities of growing rich at the expense of his fellowman, but according to the services he performs; while, on the other hand, we find Christian economists striving to induce a harassed and bewildered world to revert to an older and nobler social ethic."[2]

[1] P. 299. G. D. H. Cole is more moderate in his statements, but he too would reintroduce substantially the medieval organization. *Cf.* his introduction to Renard's *Guilds in the Middle Ages*.

[2] O'Brien, George, *An Essay on Medieval Economic Teaching* (New York, Longmans, 1920), p. 227 *et seq.* *Cf.* also pp. 8, 9.

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The two writers quoted above approach the problem, one from the point of view of theory, the other, of the practical applications. They differ widely in their analysis of the fundamental basis upon which was built the structure of medieval economic life, but they are at one in their advocacy of a reversion to the social organization of the Middle Ages, and in their belief that Christian principles pervaded and molded that society. In this they take sharp issue with the belief, sufficiently common to need no explanation, that industry and commerce in the Middle Ages were for generations seriously retarded, if not wholly stifled, by both the theory of the Canonists and the practice of the gilds.

The varying conclusions drawn from the more readily accessible material lend interest in and furnish the excuse for a fresh objective study of the sources for the social and economic history of the period from the twelfth to the fourteenth century, from the standpoint of both theory and practice, and the presentation of conclusions arrived at after such a study in the light of the more recent discussions regarding social reorganization. Obviously, the present paper can do no more than indicate a few of the interesting factors in the problem and point to a few preliminary and tentative judgments reached by the writer.

There are two avenues of approach to the subject, both of which must be explored if one is to arrive at a balanced conclusion. An attempt must first be made to understand the theory of the Canonists by which they established the underlying principles regarding the regulation and control of industry, and to estimate their influence in modifying actual practice. This must be followed by an analysis of the organs by which such control was exercised in practice.

One is struck at the outset by the freedom with which group authority—be it that of the state, of the municipality, or of the gild—in the Middle Ages could interfere with the enterprise of the individual through the imposition of minute rules. The Puritans were by no means the originators of the "blue laws", they merely adapted to their own purposes what had been common practice for centuries preceding. In the industrial

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life of today one of the most important problems is that of harmonizing the "rights" of the individual with those of the group. Man is now thought to have certain natural rights which may not, in his thinking, be infringed. And as a corollary to this the classical economists adduced the theory that industry is controlled by natural laws, which may not, and indeed cannot, be abrogated. In the Middle Ages, on the other hand, at least until the leaven of Roman law with its precepts of *jus naturale* had time to diffuse itself throughout the body social and condition men's thinking, man lived under the law of custom or the higher law of God.[1] Invoking these, authority might favor or restrict the free activity of the individual, and from these there might be no appeal.

One of the natural rights of man at present most highly cherished is the right to acquire, to use and to dispense property at one's own pleasure. It was among the most prominent articles in the Declaration of the Rights of Man; it was a fundamental concept in the formation of our own Republic. An attack thereon arouses the keenest apprehension and resentment among the majority of people in western civilization despite the active propagation of opposing theories during the past two generations. The Middle Ages, however, taught differently. The disdain for mine and thine evidenced by the Founder of Christianity, the teaching of the Fathers, the example of monasticism, the very nature of feudal land-tenure, combined to modify the earlier Roman theory of rights in property.

The final and authoritative expression of medieval teaching on this subject is to be found in the writings of St. Thomas Aquinas. In discussing the general concept of rights in property he finds that sovereign dominion belongs to God alone, but that "man has a natural dominion over things, as regards

[1] In the Middle Ages there was, of course, much discussion of natural law. But except where it was derived from the precepts of Roman law, it was thought to have been "implanted by God in Natural Reason for the attainment of earthly ends." See the acute discussion of this subject in Gierke, *Political Theories of the Middle Ages*, translated by Maitland, pp. 73–86, and the notes appended thereto, p. 172 *et seq.*

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the power to use them".[1] Proceeding more specifically to the consideration of the right of private property, he argues that "two things are competent to man in respect of external things. One is the power to procure and dispense them, and in this respect it is lawful for man to possess property."[2] But he bases his argument upon utilitarian grounds. Communal ownership he holds to be productive of confusion and quarrels over the division of the fruits of labor. Private property conduces to greater orderliness and gives assurance of a more peaceful state. "The second thing", he continues, "that is competent to man with regard to external things is their use. In this respect man ought to possess external things, not as his own but as common, so that, to wit, he is ready to communicate to others in their need."[3] Man "sins if he excludes others indiscriminately from using" that which he has taken as his own, and the statement of Basil is quoted with approval, "Why are you rich while another is poor, unless it be that you may have the merit of a good stewardship." From this it appears that the only real justification of private property in the thought of the great Schoolman is that it may be held in stewardship for the good of society as a whole.

Even Mr. O'Brien, who would modify very materially the current interpretation of the teaching of the Canonists on this point, insisting that they, in entire consonance with the whole teaching and implications of Christianity, held that the right of private property was fundamental, none the less does recognize a real difference between the teaching of St. Thomas and modern theory and practice.[4] Connected with the ownership of property was the implication that its use should redound to the good of society, and that compulsion might be used where the owner failed in his duty. With the right of private property thus circumscribed, at least in theory, there was lacking one of

[1] *Summa Theologica*, II, ii, 66, 1. Quoted from the translation by the English Dominicans.

[2] *Ibid.*, Art. 2.

[3] *Ibid.*

[4] G. O'Brien, *op. cit.*, p. 66 *et seq.*

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the bulwarks behind which vested interest might entrench itself in its fight for freedom from control.

There follows a further consideration. In modern times the tendency, especially in the actual world of industry and commerce, has been to consider any commodity as worth just so much as it will bring on the market. Its value tends to vary according to the desire or need of the individual selling or purchasing, regardless of any supposed intrinsic worth and, within limits, of the cost of producing it. Price tends to control production. It is true that this view is suffering modification in practice—witness the regulation of public utilities, the fixing of the price of necessities, and the laws directed against profiteering—but such modifications as recent years have witnessed have been compelled to force their way in face of stubborn resistance of theorists and of those whose freedom of action was thus infringed. In the Middle Ages, on the other hand, value was looked upon as objective. The value of an object was what that object was intrinsically worth. Value, then, inhered in the object itself, and this the community was supposed to determine regardless of the special circumstances surrounding any particular transaction and regardless likewise of temporary fluctuations of the market. It was wrong to take advantage of another's need to exact more than the intrinsic value of a commodity, and more especially because of another's straitened circumstances, to force him to sell at a price below the intrinsic value of the object. From this flowed the theory of the *just price*. Under such a system purchaser and seller should, according to the theory, reap reciprocal advantage from any given transaction. Since the function of the middleman was then reduced to a minimum this means that both were protected—the vendor in that he was assured a fair return for his labor expended or risk assumed; the buyer in the assurance that advantage might not be taken of his need. The cost of production was considered a first charge against a commodity, and the price at which it was to be sold was computed upon that basis. It was not expected that the producer should run any such risk, due to fluctuations of the market, as he now undergoes,

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nor was it intended that the consumer should pay a price necessary to cover such risk.[1]

There may be noted in passing certain rather obvious considerations regarding the just price and its comparison with modern business theories. Business enterprise was on a very different scale. It is probable that in most cases tradesman and purchaser were friends or at least acquaintances. Personal relationships must then have played a far more important rôle in business transactions than they possibly could do at the present time. As an example may be cited the opposition to usury, one ground for which was that to charge for a loan was to reap advantage from your friend's misfortune. More important than the consideration of the personal element in trade is the fact that in general goods were produced to supply a local market the demands of which for any given commodity would be relatively constant and easily predictable. The organization of industry was such that there was little danger of a trade becoming overstocked. As the danger of overproduction was thus reduced to a minimum, the necessity of unloading and the probability of consequent important fluctuations in price would also be slight. Today, on the other hand, means of rapid transportation and large-scale production have changed all this. For many commodities the markets are the world. The production and sale of goods is an extremely intricate matter involving factors difficult of control. Industry, too, is concerned much more than formerly with the production and marketing of non-essential commodities. Since these are luxuries the assumption has been that the community is not so vitally interested in the regulation of their price. In the Middle Ages, indeed, gild rules were relaxed when it was a matter of serving the special demand of king or nobleman; then as now emphasis in regulatory statutes was placed upon necessities—witness, for example, the assizes of bread and ale in thirteenth-century London. It would seem that any discussion that would attempt to

[1] *Cf.* Cunningham, *The Growth of English Industry and Commerce*, vol. I, p. 233 *et seq.*, wherein he compares the just price of the Middle Ages and the "higgling of the market" under the present competitive system.

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evaluate the ethical standards by which economic life is governed now in comparison with the standards which prevailed six centuries ago should give careful consideration to these external conditioning factors.

The application of the theory of the just price carried with it the necessity of maintaining some common standard of production. If price is to be regulated, obviously there remains a further obligation on the part of the regulating authority to see that a product of even quality is turned out through the maintenance of a common standard of workmanship and through the establishment of minute rules regarding the size, weight and quality of the raw material. It is probable that herein lay one powerful motive for the organization of craft gilds as the normal unit of production. On the part of civil authority it would be found that supervision and the maintenance of proper standards would be greatly simplified. Such organization would benefit the artisan or merchant since it would make possible some considerable measure of autonomous control within the group engaged in any given trade. The government would find it easier and more satisfactory to deal with a responsible group interested in maintaining the standards of its profession and the good name of the gild than with each separate individual of the trade, and would thus be quite prepared to permit the gilds to make and enforce their own regulations, subject only to the supervision of the civil authorities.

If it be true that authority, unhampered by a theory of natural rights of the individual and buttressed by a theory of property which restricted the individual in the use or abuse thereof, may assert the prerogative of enforcing the maintenance of a just price, it follows that in equity some guarantees should be given those so controlled. If merchants from one town should be permitted to trade freely in another, whose rules regarding manufacture they had not observed, or if members of one trade should encroach upon the operations of another trade by the rules of which they were not bound, the trades thus affected would feel that they had a legitimate grievance. This suggests a reason for the grants of monopoly, which formed a regular and almost universal feature in gild

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charters.[1] It helps to explain also the explicit statements, so frequently found in town records, laying down the conditions under which foreign merchants may be permitted to trade in the town. It cannot be maintained that the first charters granting monopolies to industrial gilds were motivated by this principle. However one very soon finds the gilds demanding that in return for responsibilities which they assume—both in the payments which they make to king or municipality, and in the guarantees which they offer for the faithful observance of the rules of their craft—they have assured to them the exclusive right of manufacture and sale of their commodity in a given town.

It is too much to assume that in the thirteenth century men ordered their business wholly in accordance with carefully preconceived theories. No very extensive reading of town records is necessary to satisfy one of this fact. Such documents are full of complaints against individuals and gilds charging failure to observe regulations. Fines are assessed with apparent liberality to all, from the alewoman who is mulcted periodically to the town mayor who, it has been discovered, has engaged in sharp practices.[2] But the fact that such instances are common must not lead us to assume, as some writers have done, that the teaching of the Canonists was entirely ignored. This question is by no means unimportant, but it is probably impossible of precise resolution. The sources from which the theory is drawn tell nothing of the practice, and, except for a few vague and virtually meaningless phrases, the documents from which is drawn a knowledge of the practice of the Middle Ages reveal little of the theory. In lieu of tangible evidence one is forced to rely upon general impressions after reading both groups of materials. In forming an opinion account must be

[1] In one of the earliest of these, Henry II grants a monopoly to the tanners of Rouen in return for services rendered him—*pro servicis quod ipsi tantores mihi faciunt*. Fagniez, *Documents relatifs à l'histoire et au commerce en France.*, vol. I, p. 89.

[2] Riley in *Memorials of London and of London Life* has made easily accessible a considerable body of such material relating to London. *Cf.* for example pp. 71, 78, 83, 90, 108, 116, 118–123, 133, 135–137, 139, 156 *et seq.*, 181 *et seq.*, 235.

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taken of the fact that the theory was backed by the sanctions of the Church and that more weight must therefore be given it than would be the case today. It may at least be affirmed with safety that the principles which the Canonists enunciated formed the background, whether consciously grasped or not, from which sprang judgment and action in the world of trade.

If the foregoing analysis is correct, enough should have been said to indicate that the control of industry in the Middle Ages presented no problem in theory. Authority was fully competent to regulate industry in any way that might seem to its own or the community's best interests, and upon this premise regulations were laid down which seemed to have as their aim the protection of both the producer and the consumer. The real problem of control lay in fixing the limits of rival authorities—the state or the municipality, and the gild.

Regarding this question students have arrived at very different solutions. Mr. Cole in his introduction to Renard's *Guilds in the Middle Ages* champions the theory that the gilds were self-regulating corporations. "The gild", says he, "was internally a self-regulating unit laying down the conditions under which production was to be carried on, and occupying a recognized status in the community based on the performance of certain communal functions."[1] And he affirms that "it was an axiom of medieval industry that direct management and control should be in the hands of the producers under a system of regulation in the common interest".[2] According to his theory residuary control might or might not rest with the state. Renard holds that the gilds, without any interposition of the authorities, freely regulated production and sale on the principle of fairness to all,[3] while Brentano thinks that the gilds without restraint or compulsion issued their own regulations. Craft gilds, he asserts, were entirely free.[4] Seligman, on the

[1] P. xiv.

[2] P. x. *et seq.*

[3] *Guilds in the Middle Ages*, p. 40 *et seq.* Renard recognizes, however, the competence of the civil authority to call the gilds to account. They were, in his judgment autonomous, but not sovereign.

[4] *Origin and Development of English Gilds.*

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other hand, sharply combats any such theory, insisting that "the gild rules were only part and parcel of the common laws and not merely the independent work of the crafts themselves."[1] He holds that the gilds in England were subordinate to the laws of the realm and to the ordinances and courts of the municipalities,[2] and he sums up his judgment in the matter in these words:

> A link in the great chain of economic development [the gild] can be understood only in conjunction with the whole theory of medieval economic policy. Its main features were impressed from without rather than evolved from within,—the result of compulsory obedience to the general principles of town and state rather than the elaboration of peculiarities inherent in the gilds as associations which breathed the spirit of peace and good will to all.[3]

In this he is in accord with Gross who holds "that, with few exceptions the crafts [were] strictly subservient to the governing body of the town".[4] And Mr. Lipson, who has explored the whole field of economic history of medieval England, on the basis of newly available material, reaches substantially the same conclusion. After pointing out the difficulty of any clear generalization since every town presented a different problem, he ventures to summarize thus:

> At first they [the crafts] appear to have been private and voluntary associations which struggled into existence in the face of vigorous opposition on the part of the municipal authorities, who regarded with jealousy their attempts to establish feudal immunities, and were apprehensive of an exclusive industrial monopoly which might prove detrimental to the welfare of the community. Subsequently, however, the authorities, impelled by the expansion of industry, changed their attitude and actively encouraged the formation of crafts and the development of the gild system, in order to tighten their hold over those engaged in trade and more effectively to exact a satisfactory standard of workmanship. . . . The craft gilds now became public bodies vested

[1] *Two Chapters in the History of English Gilds*, p. 26.

Ibid., p. 78 *et seq.*, esp. p. 81.

[3] *Ibid.*, p. 86.

Gross, *Gild Merchant*, vol. I, p. 113.

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with semi-legal authority, an organic but strictly subordinate department of civic administration, supported and controlled by the municipal government, which always retained a reserve power while delegating to them the supervision of trade and industry. Whatever degree of autonomy and separate judicial authority the gilds may have possessed, they were strictly subservient to the rulers of the town. We find the authorities electing gild officials, amending gild laws, punishing bad workmanship, interfering in behalf of the oppressed artisan, regulating wages, and fixing prices.[1]

In his review of French gilds Martin St. Léon finds that they were subject to the jurisdiction of the king's official or to that of a feudal lord.[2]

Between these extreme views others steer a middle course. Mr. Ashley, for example, thinks a truer statement would be that

> the town magistrates were recognized as having a vague but real authority over the gilds, enabling them if they pleased to issue ordinances binding on any craft, but most of the gild statutes were really drawn up by the craftsmen themselves, and the approval of the town magistrates, necessary to give them binding force, was granted as a matter of course.[3]

With this statement Levasseur, the learned author of the *History of the Laboring Classes and of Industry in France*, is in substantial accord.[4]

When competent scholars may draw from a study of the sources such differing conclusions, one hesitates to venture upon the storm-swept sea of generalization. Not only did conditions differ from state to state, but local peculiarities frequently induced important variations from the normal in towns within the same state. Such a situation naturally renders generalization difficult and unsatisfactory. But certain conclusions, at least tentative, seem justifiable. Some considerable study of the subject has brought with it the conviction that those who idealize the economic organization of the Middle Ages, be they

[1] *Economic History of England*, vol. I, p. 339.

[2] *Histoire des corporations de métiers*, p. 112.

[3] *An Introduction to English Economic History and Theory*, vol. I, p. 85.

[4] *Histoire des classes ouvrières et de l'industrie en France avant 1789.*

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economic theorists or Christian apologists, see but one-half of the canvas; and the same may be said of those *laissez-faire* theorists who unqualifiedly condemn the regulations then enforced regarding manufacture and sale as unwarranted infringement upon the province of private initiative. Forms of organization may undergo important transformations to meet changing conditions. It cannot be confidently affirmed that the principle of the just price implied an ethical standard in the industrial life of the Middle Ages higher than our own or that its adoption into our industrial organization would necessarily imply a material improvement over present standards. On the other hand, it is no less unwarrantable to attempt to apply what would be obvious criticism under present economic organization to an industrial organization developed under far different circumstances to meet widely differing needs. The critical factor is the motive which lies behind any particular form. Levasseur seems to feel that this was essentially one of self-interest.[1] Without subscribing to so extreme an assertion, one may recognize that in the actual business practice of the Middle Ages altruism played a rôle little if any more important than now.

Even a cursory reading of such a compilation as the *Livre des Métiers*,[2] regulations of some one hundred gilds of Paris gathered by the Provost of Paris under Louis IX, will illustrate the above statement and show the motives which called forth these regulations. To the gilds it was on the one hand a matter of maintaining a monopoly of work or trade in a given industry as against the competition of foreigners or gilds in allied trades, and by the careful framing of rules regarding apprenticeship to restrict the number of workmen in a given trade. On the other hand considerations of good business—the maintenance of privilege and the confidence of the buying public—led to the establishment of detailed regulations regarding manufacture and sale. Work must be "good and legal", unfair

[1] See for example *Histoire des classes ouvrières et de l'industrie en France*, I, p. 316. "*Chacun stipulait pour soi*", he says.

[2] *Réglemens sur les arts et métiers de Paris rédigés au XIIIe siècle et connus sous le nom du Livre des Métiers d'Étienne Boileau.* Ed. by Depping in *Documents inédits*, Paris, 1837.

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advantage must not be taken of a fellow gildsman, any infraction of the regulations must be reported that the gild may not secure a bad reputation. That the latter regulation was necessary is clear from the numberless instances of fines levied for breach of the regulations—by officers even of the gilds. Indeed so frequent are these cases and so clearly do they seem to point to the fact that questions of expediency rather than of high principle governed the foundation of gild regulations, and so continuously does one see the pressure of the civil authorities back of the gild, that the belief in the autonomous control of the gilds over industry seems quite untenable and the conviction grows that regulations were either imposed by state or municipal authority as a protection for the consumer or adopted by the gild as the price of securing very real privileges. In either case the governing body, either state or municipality, retained control. To revert again to the situation at Paris, the representative of the king in many cases appointed the wardens of the gilds, and in every case the wardens were responsible to him; he retained jurisdiction in case of legal action; regulations were adopted saving the prerogative of the king; to the king went a considerable portion of the fines collected; and, finally, in many cases a sum of money had to be paid the king before a man might become a master in a gild.

Such was the situation in one important municipality and much evidence might be adduced from the records of other cities corroborative of the above. But properly to handle such matter would require space beyond the limits of this paper. All that has here been attempted is to point out certain features of the problem of industrial control in the Middle Ages which seem to the writer significant and which must be kept in mind if any fruitful comparison is to be drawn between present and medieval economic conditions.

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LAW-MAKING BY PROPERTY OWNERS

Shall the Exercise of the Police Power be made to Depend upon the Consent of Property Owners?

I

AMONG the subjects of legislation that are embraced within the elastic term "police power" certain comprehensive social subjects have been universally accepted by the courts. Thus there can be no question that the public peace, public health, public morals and public safety are appropriate subjects for legislation under the police power, however vaguely bounded may be the possible field for regulation under each of them. But not infrequently—indeed very commonly—the courts, in describing the police power generally, have gone further than this accepted list; they have included such undefined and less definable subjects as the "general or public welfare", the "public comfort or convenience" and the "general prosperity" or "general well-being" of the community. It is manifestly impossible satisfactorily to example such broad subjects as these. Moreover, it is simply a fact that, however generous their definitions have been, the courts have rarely sustained under the police power laws of social, as distinguished from economic, import unless such laws could be gathered under one of the four specific subjects mentioned. Such subjects, for instance, as the promotion of community æsthetics or the protection or stabilization of property values have for some years been knocking vigorously at the judicial door for admission as fully recognized police-power subjects. They have been hospitably entertained by a few courts; but they are very far from being firmly established among the commonly applied group of subjects.

In comparatively recent years there has been an increasing tendency on the part of cities to deal with certain matters under the police power through a peculiar type of prohibitory ordi-

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nance. Such ordinances prohibit—presumptively in the interest of the public peace, health, morals, or safety; but strangely enough they permit a waiver of such important interests upon the consent of property owners (less frequently of occupiers) in the vicinity affected. Stated thus broadly, this curious legal situation seems worthy of some close scrutiny. It is assuredly worthy of closer scrutiny than has been given it by many of the courts that have considered it.

Most of the ordinances in question have dealt with the matter of more or less noxious industries; such as laundries, livery stables, slaughter-houses, stone quarries, brick kilns, soap factories, public garages, gas houses, paint and varnish works, junk shops, hospitals for inebriates or the insane. Reasonable regulation of such enterprises may readily be referred to one or another of the usual subjects of the police power.[1] Speaking of the livery business, for example, the United States Supreme Court has specifically declared that "it is within the police power of the state to regulate the business" in the interest of the "health and general welfare of the people."[2] A few of these ordinances have dealt with the erection of wooden buildings in congested districts. Here again is involved one of the time-accepted subjects of the police power—the public safety. Several of the ordinances have related to billboards. In not a few states the regulation of billboards has ultimately been sustained by reference to the usual subjects of the police power; and so far as the federal constitution is concerned the United States Supreme Court has not hesitated to sustain the actual prohibition of billboards "in residence districts of a city in the interest of the safety, morality, health and decency of the community."[3] Finally, some of these ordinances (usually the so-called modern "zoning" ordinances) have attempted to im-

[1] Even offensiveness that results only from disturbing noises or foul vapors may, not unreasonably, be regarded as deleterious to health because of the effect of such noises or vapors upon human nerves or their interference with sleep. Freund, *Police Power*, section 1076.

[2] Reinman *v.* Little Rock, 237 U. S. 171 (1915).

[3] For an historical survey of the attitude of the courts toward billboard regulation see McBain, *American City Progress and the Law*, pp. 76-91.

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pose prohibitions upon the uses of property to the end of determining the business or residential character of districts. It is difficult to see how some of the restrictions created by such ordinances can be sustained by reference to the customary subjects of the police power.

Generally speaking, the ordinances here under review impose a prohibition upon the establishment or the maintenance of this or that noxious industry or wooden building or billboard or business enterprise, either anywhere in the city or within prescribed districts or in blocks of described character, without the consent of a percentage of the property owners in the block or district or within a radius fixed. The question arises: If these prohibitory ordinances can be sustained only because they are enacted in the interest of the public peace, health, morals, or safety, upon what theory can neighboring property owners be allowed to dispense with their operation? How, if at all, have the courts answered this question?

Not all of the cases in which this question of property owners' option has arisen have involved ordinances that establish what may be called "exclusion districts"—that is districts within which this or that enterprise is prohibited. But many of the cases have involved ordinances of this character. Let it be said, then, at the outset that nearly forty years ago the United States Supreme Court put its seal of approval upon the exercise of the police power for the usual purposes by the exclusion district method. "A prohibition to carry on the washing and ironing of clothes in public laundries and wash-houses, within certain prescribed limits of the city" is "merely a designation of the portion of the city in which the precautionary measures against fire and to secure proper drainage may be taken for the public health and safety."[1] Whether the public health and safety could or could not have been adequately protected by regulation short of complete exclusion from designated districts was not discussed; the propriety of the exclusion district method was conceded without argument. So also the propriety of this method as commonly employed in ordinances prohibiting the erection of wooden buildings within prescribed limits has sel-

[1] Barbier *v.* Connolly, 113 U. S. 27 (1884).

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dom if ever been questioned.[1] It must be taken as settled, therefore, that the establishment of exclusion districts is a proper method of exercising the police power, at least for the regularly accepted purposes.

A brief review of the cases in which this question of the property owners' consent has been raised seems indispensable.

II

In a California case decided in 1882 the United States District Court held void an ordinance of San Francisco which required within a prescribed portion of the city a license for the conduct of a laundry business, which license could be issued by the governing board of the city only upon "the recommendation of twelve citizens and taxpayers in the block" affected.[2] The laundry business could be regulated in the interest of the public health and safety. Granted; but the mere requirement of a license could not secure these ends. The city could also demand licenses when the public good required; but it could not delegate this power to others, as in this case it had attempted to do. The ordinance was unreasonable; which was sufficient to condemn it. Specific constitutional grounds were not mentioned. Two years later a similar laundry ordinance requiring the consent of a majority of the property owners in the block was declared void by the California Supreme Court upon much the same grounds.[3]

Now presumably both of these ordinances would have been void because of the arbitrariness of the license requirement,[4] even in the absence of the clauses requiring the consent of citizen taxpayers or of property owners. In both cases, however, large stress was laid upon this requirement; it was made

[1] McQuillin, *Municipal Corporations*, sec. 948; City of Olympia *v.* Man, 1 Wash. 389 (1890); Mt. Vernon First National Bank *v.* Sarlls, 129 Ind. 201 (1891).

[2] *In re* Quong Woo, 13 Fed. 229 (1882).

[3] *Ex parte* Sing Lee, 96 Cal. 354 (1892).

[4] Yick Wo *v.* Hopkins, 118 U. S. 356 (1886); Barthet *v.* New Orleans, 24 Fed. 563 (1885); State *v.* Mahner, 9 South. (La.) 480 (1891); Merton *v.* Belger, 143 Mass. 598 (1887); Richmond *v.* Dudley, 28 N. E. 312 (1891); State *v.* Tenant, 14 S. E. (N. C.) 387 (1892).

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a pertinent objection to the ordinances. In both cases the general ordinances in question were enacted by the same body that granted the licenses. Manifestly this body in any specific instance could have ignored the requirement which it had itself imposed. In other words, in view of the identity of the ordinance-making and the license-granting authorities the consent of others might have been regarded as advisory rather than mandatory. This point was not considered in either case; nor was there any discussion of the propriety of regulation by exclusion from a portion of the city.[1]

A California court has also held void a San Francisco ordinance which required that permits for livery stables should be granted by the board of public works only upon the "written consent of the owners of property within two hundred feet of the stable."[2] The ordinance was "unreasonable and void, because it vested in private individuals the arbitrary power to determine whether the owner of real property may use it in pursuit of a lawful occupation." Practically identical with this San Francisco ordinance was a livery stable ordinance of St. Louis, which was declared invalid because of "the delegation of legislative power . . . to the owners of one-half the ground in the block", and because of a "denial of equal rights before the law." Although the point was not at issue the court admitted introductorily that the city had power to "regulate the place of building livery stables and confine them to certain localities within the corporate limits."[3] Neither of these livery stable ordinances established any exclusion district; the prop-

[1] In one case that has arisen under the general industrial and residential district ordinances of Los Angeles, one of the points made was that, having established certain industrial districts and declared all other parts of the city to be a residence district, the ordinances provided that property owners might petition for the establishment of additional industrial districts. Sam Kee *v.* Wilde, 183 Pac. 164 (1919). This point was not discussed in the brief opinion that was read. Apparently, however, the city council had not by this provision circumscribed its own power to create industrial districts *without* such petitions; nor had it guaranteed to create such districts *upon* such petitions. The provision for petition was merely one method of initiating a movement for the establishment of an industrial district.

[2] Coon *v.* the Board of Public Works, 7 Cal. App. 760 (1908).

[3] St. Louis *v.* Russell, 116 Mo. 248 (1893).

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erty owners' consent was the sole restriction imposed. Nor could this consent by any possibility have been construed as being merely advisory, for the permit was granted not by the legislative body of the city but by an administrative agency.[1]

The Missouri court has also held that a municipal ordinance could not provide that the application to the city council for permission to erect a wooden building within the fire limits must be accompanied by the written consent of all the property owners in the block affected. Among other objections the use of property could not be made to "depend upon the arbitrary

[1] In another Missouri case, St. Louis *v.* Howard, 119 Mo. 41 (1893), involving somewhat complicated charter and ordinance provisions, the decision in St. Louis *v.* Russell was reaffirmed. The charter (1) empowered the municipal assembly of St. Louis to "provide for the erection, management and regulation of slaughter-houses"; (2) expressly declared that no slaughter-house should be *erected* within three hundred feet of any dwelling . . . without the consent of the owner and of the occupant of every such house"; and (3) authorized the assembly to enforce this provision by ordinance. The ordinance (1) prohibited the "*erection*" of slaughter-houses within the three hundred feet "without first having obtained permission so to do from the municipal assembly by proper [special] ordinance"; and (2) made it unlawful to "*carry on*" a slaughter-house within the three hundred feet without the consent of owners and occupants. The court held that while the "erection and operation may be checked or restrained either partially or *in toto*", the city had not exercised its plenary powers. It had made it a misdemeanor to "erect" a slaughter-house without the permission of the "municipal assembly by proper [special] ordinance", but it had not made it a misdemeanor to "carry on or operate" a slaughter-house without special permission. The "*operation*" had been forbidden only if the consent of property owners and occupiers was not obtained. This was void by the rule of St. Louis *v.* Russell.

The court expressed the opinion that the city might have enacted a general ordinance prohibiting the operation of slaughter-houses except under permission granted by a special ordinance, and "doubtless" might have required "as a condition precedent" to the passage of such special ordinance that "the consent in writing of the owner or owners of adjacent house, or houses, should first be obtained". The special ordinance "would have the force of law, no matter what were its prescribed prerequisites". The fact that this method of granting permits by special ordinance would permit arbitrary allowances and disallowances was not referred to, although in the Russell case, decided in the same year, a number of cases in which ordinances were voided upon this ground were cited with approval. Nor was it averred that the owners' consent would be merely advisory; evidently such consent was looked upon as a possible mandatory condition precedent. These views, however, must be regarded not only as dicta but also as having been tacitly overruled by the case of Hays *v.* City of Poplar Bluff, 263 Mo. 516 (1914).

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will or caprice of the municipal legislature." Moreover, the council could not make what "amounts to a delegation of the legislative power of the city to such property owners." [1] On both of these grounds the ordinance must fall. Needless to say, perhaps, there was no intimation in this case that a complete prohibition of wooden buildings within the fire limits could not have been imposed. So in Kentucky the court refused to sanction an ordinance of Louisville which required, as a condition precedent to the issuance of a permit by the building inspector, the consent of neighboring owners of brick or stone structures for the erection, removal, or remodeling of any frame house within the city.[2] The power to enforce regulations for the health and safety of the public could not be "delegated to a private citizen as here attempted." An ordinance that "attempts to vest arbitrary and irresponsible power in the owner of every brick or stone building in the city over the property rights of his neighbor is neither reasonable nor constitutional." There was here no question of exclusion district; nor could the provision for the owners' consent be regarded otherwise than as mandatory.

In Colorado a brick-yard maintained within twelve hundred feet of any residence without permission from the owner of such residence may not be declared a nuisance by ordinance.[3] Such an ordinance is "manifestly radical, unjust and oppressive"; its effect is "clearly to take and destroy property without due process of law." In this case no permit was required; the violator was prosecuted upon the complaint of a neighboring property owner.

In Wisconsin an ordinance of Milwaukee required that an application to the inspector of buildings for a permit to erect a public garage (among other enumerated noxious enterprises), "within that portion of the city not set aside for business purposes", should be accompanied by the written consent of two-thirds of the property owners within three hundred feet of the

[1] Hays *v.* City of Poplar Bluff, 263 Mo. 516 (1914).

[2] Telford *v.* Belknap, 126 Ky. 244 (1907).

[3] Denver *v.* Rogers, 46 Col. 479 (1909).

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proposed site. The ordinance was held void solely on the ground that "it attempts to delegate legislative power vested in the council to private citizens." [1] The ordinance here applied to a large exclusion district, a so-called residence district. The court did not discuss the question whether the council might have wholly excluded garages and other noxious business from this district. It was asserted, however, that "no attempt is made to place it [the ordinance] upon the ground of public welfare and public health or any other interest which the public might have in the matter, but the determination is left to the desire, whim, or caprice of the adjacent owners." [2]

Probably the best reasoned opinion in which an ordinance of this kind was held void is that which was handed down by the supreme court of Nebraska in 1907.[3] An ordinance of Omaha required the consent of the owners of property within a radius of one thousand feet as a prerequisite to the issuance of a permit by the building inspector for the erection or remodeling of a gas-works. The contentions against the validity of the ordinance were: first, that in practical operation it might become prohibitory; and second, that it conferred upon individual property owners powers which the governing body of the city could not delegate. With these contentions the court agreed. It was not declared that the city was powerless to prohibit the erection of a gas-works. The court expressly declined to pass upon this point. It was denied, however, that this ordinance amounted to "no more than an indirect exercise of the power of prohibition" because in effect the prohibition would take place "not in obedience to the will of the responsible governing body of the city but at the instance or because of the inaction of an individual or of individuals." In answer to the

[1] State *ex rel.* Nehrbass *v.* Harper, 162 Wis. 589 (1916).

[2] An attempt was made to bring this case within the rule which sustains local-option legislation "by claiming that the ordinance was general in its operation and that its provisions were simply waived by adjacent property owners". This contention the court answered by saying: "It is plain that the question of whether or not a garage shall be erected in a particular place is determined not by the common council but by the property owners."

[3] State *v.* Withnell, 78 Neb. 33 (1907).

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argument that it was "reasonable to permit the property owners to determine whether and to what extent they would submit to annoyances and to danger to their health and persons", the court said: "The whole theory of police regulation is that people in their individual or private capacities cannot be, and ought not to be, entrusted with the guardianship of their own health, safety and social well-being. Men, women or children are not permitted, even voluntarily, to expose themselves to needless perils, nor are property owners, merely because they are such, entrusted with the power to expose others to danger." It was the duty of the mayor and council to determine "by inspection of a given district or neighborhood, whether it is one within which a proposed structure or business may lawfully be erected or maintained." "They can not shift their responsibility, either of prohibition or regulation, upon any class or classes of the community, or, as it might happen, upon non-residents."

The cases mentioned above are probably all of the cases in the books in which ordinances have been held void on the ground that the consent of neighboring property owners may not be made a condition precedent to the establishment or maintenance of a more or less noxious enterprise.[1]

In a few cases in which billboard regulations have been declared void, the ordinances in question have included provisions requiring the consent of the owners of neighboring property. Thus in Illinois a Chicago ordinance was held invalid which

[1] The case of People *ex rel.* Goldberg *v.* Busse, 240 Ill. 338 (1909), involved an ordinance of Chicago which required the consent of property owners in the block for the erection of a junk-shop. The argument of the court turned wholly upon a question of charter construction. The charter had conferred the power to "tax, license and regulate", but not the power to "direct the location" of junk-shops. In 1911 the general Cities and Villages Act of Illinois was amended (apparently because of this decision) by adding the words "and to direct the location thereof". Thereafter an ordinance similar to the one held void was sustained in Smolensky *v.* City of Chicago, 282 Ill. 131 (1918). But there was no discussion whatever of the police power or of the propriety of requiring the consent of property owners. The only question decided was whether, under the decision of City of Chicago *v.* Lowenthal, 242 Ill. 404 (1909), the court had defined "junk-shop", as used in the charter, so as to exclude wholesale junk-dealers.

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regulated the size and mode of construction of billboards and which forbade their erection upon any boulevard or pleasure driveway or in any streets in which three-fourths of the buildings were residences, without the consent of three-fourths of the residents and property owners in the block concerned. The regulations in regard to construction might not be "so unreasonable as to be void if . . . limited to particular districts of the city;" but even though limited to residence streets, the requirement of the consent of residents and property owners was "unreasonable and void." The purpose of this requirement, as well as that of the high license fee imposed, "seems to be mainly sentimental and to prevent sights which may be offensive to the æsthetic sensibilities of certain individuals." These requirements "were intended to be prohibitive rather than regulative, and are . . . unreasonable."[1] A similar ordinance of Denver was held void by the Colorado supreme court.[2] In this case, however, it was the view of the court that the provisions in respect to the size and construction of billboards went far beyond what was essential for the public safety. As to the consent of residents and property owners it was sufficient to say that "this feature of the ordinance is admitted by counsel to be invalid, and was so held by the trial court."

Finally must be mentioned a few cases involving the consent of property owners in which certain invalidated ordinances were directed to the accomplishment of purposes not embraced within the usual subjects of the police power. Thus a Denver ordinance was held void which prohibited the building inspector from issuing a permit for the erection, within a designated residence district of the city, of any apartment house or flat, store building or factory, rooming-house or hotel, without the consent of a majority of the property owners on both sides of the street in the block affected.[3] The ordinance also required the applicant to agree to erect his building with reference to the building line in the block. Said the court: "A

[1] Chicago *v.* Gunning System, 214 Ill. 628 (1905).

[2] Curran Co. *v.* Denver, 47 Col. 221 (1910).

[3] Willison *v.* Cook, 54 Col. 320 (1913).

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store building is in no sense a menace to the health, comfort, safety or general welfare of the public" whether constructed to the line of the street or with reference to a building line. Even if it were such a menace, "such objections would in no sense be removed by the consent to its construction by a majority of the owners of property in the same block." The restrictions of the ordinance were invalid "because they have no relation to any object which the municipality, in the exercise of its police power, may legally accomplish, and are unreasonable, arbitrary and oppressive." The ordinance was also unconstitutional.

The Illinois court has likewise held that the city of Chicago may not require, as a condition for the grant of a building permit for the erection of a retail store in a block used exclusively for residence purposes, the consent of the owners of a majority of the property in the block.[1] For one thing the charter confers no such power. "But even if the municipality is clothed with the whole police power of the state it would not have the power to deprive a citizen of valuable property rights under the guise of prohibiting or regulating some business or occupation that has no tendency whatever to injure the public health or public morals or interfere with the general welfare." "It may be that in certain exclusively residence districts the owners of residence property would prefer not to have any retail stores in such blocks, but if such be the case, it manifestly arises solely from æsthetic considerations, disconnected entirely from any relation to the public health, morals, comfort or general welfare." It is evident from the opinion in both of these cases that if the ordinances had merely prohibited the erection of store buildings in residence districts and had contained no provisions in respect to the consent of property owners they would nevertheless have been held invalid as being beyond the scope of the police power.

The city of Richmond, Virginia, enacted an ordinance providing that whenever the owners of two-thirds of the property in any street shall request the commissioner of streets to establish a building line on either side of the street in any block,

[1] People *ex rel.* Friend *v.* Chicago, 261 Ill. 16 (1913).

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the commissioner shall establish such line. The United States Supreme Court held this ordinance void.[1] The court expressly refused to "consider the power of a city to establish a building line as a general proposition." Here, however, the building line was not fixed by the municipal authorities; the ordinance left them no discretion; their action was determined by the action of the property owners. In other words, part of the property owners determined the extent of use that other owners should make of their lots. "In what way," asks the court, "is the public safety, convenience or welfare served by conferring such power?" Property owners may act in the matter "for their own interest, or even capriciously." "Even so arbitrary a thing as taste may control." There may be great variations in building lines not only from locality to locality but also from side to side, from block to block, in the same street. "It is hard to understand how public comfort or convenience, much less public health, can be promoted by a line which may be so variously disposed." This case, it will be observed, differs from the others that have been considered in that the consent of property owners operated, not to waive a prohibition or limitation otherwise imposed by the corporate authorities of the city, but to impose a prohibition or limitation otherwise waived by the corporate authorities.[2]

So much for the cases in which police ordinances involving the consent of property owners have been declared invalid. A brief review follows of the cases in which such ordinances have been sustained.

III

A Chicago ordinance required the consent of a majority of the property owners in the block for a permit to erect a livery stable (among other noxious enterprises enumerated) in any block in which two-thirds of the buildings are devoted exclusively to residences. The ordinance was sustained.[3] The

[1] Eubank *v.* Richmond, 226 U. S. 137 (1912).

[2] *Infra*, p. 633, and p. 636, note 4.

[3] City of Chicago *v.* Stratton, 162 Ill. 494 (1896).

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court was "unable to see how this amounts to a delegation by the common council of its power to direct the location of livery stables." A livery stable may be "injurious to the comfort and even health of the occupants of neighboring property"; but if they "make no objection to the location of a stable in their midst an enforcement of the prohibition would seem to be unnecessary." The lot owners do not locate the stable; they are merely allowed to waive the right to insist upon the enforcement of a legal prohibition which was adopted for their benefit and comfort. The ordinance could be sustained on the ground, so often relied upon to sustain local option laws, that the legislature is competent "to pass a law the ultimate operation of which may, by its own terms, be made to depend upon a contingency."

Reasoning from this same analogy of local option laws, the supreme court of Washington sustained a similar ordinance of Spokane which required that the board of public works issue a livery stable permit only with the consent of the owners of a majority of the lots in the block.[1] Refusal of consent by the owners was the future contingency upon which the prohibition of the ordinance was to become effective. In a later Washington case the court, without specific reference to the analogy of local option laws, was content to argue merely that those who were affected might reasonably be permitted to waive the protection offered them.[2] The ordinance prohibited the establishment or maintenance of any hospital without sewer connections, or of any private hospital for inebriates or the insane, within two hundred feet of any private property without the consent of the owner of such property. "The presence of a private insane asylum . . . would annoy, injure, and endanger the comfort, safety, and repose", of those living nearby. It "would practically destroy the value of all property within its immediate vicinity for residence purposes." It was proper therefore "for the municipal authorities to require the assent of the injured parties." In referring here to the "value" of property

[1] City of Spokane *v.* Camp, 50 Wash. 554 (1908).

[2] Shepard *v.* Seattle, 59 Wash. 363 (1910).

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it is not clear whether the court had in mind monetary value or whether the word was used merely in the sense of usefulness.

Ordinances have been sustained in a number of jurisdictions which required the consent of neighboring property owners for a permit to maintain a public garage in a residence district. Thus a Chicago ordinance which required a majority consent of property owners in the block for the location of a public garage in a residence block was upheld.[1] The charter expressly conferred the power to "direct the location" of specified noxious industries including garages. Examining the nature of the garage business the court concluded that because of its relation to the public health, safety and comfort, "it is of such a character that it becomes a nuisance when conducted in particular localities and under certain conditions, and it is clearly within the province of the legislature in the exercise of the police power, to authorize the municipalities of the state to direct the location of public garages." Under the charter grant of power the city could not completely prohibit, but it could prohibit in residence districts. On the specific point of the consent of property owners the court merely said without argument that it was not unreasonable.[2]

An elaborate ordinance of the District of Columbia prohibited the issuance of a permit for a public garage upon any residence street without the consent of three-fourths of the property owners within a radius of two hundred feet. This ordinance was upheld by the Court of Appeals of the District of Columbia.[3] Referring to the above-mentioned case in which the United States Supreme Court held invalid a building-line ordinance of the city of Richmond, the court distinguished this case on the ground that here was involved "the question of legalizing a public nuisance." Although the argument is somewhat

[1] People *ex rel.* Busching *v.* Ericsson, 263 Ill. 368 (1914). The same ordinance was construed in Wise *v.* City of Chicago, 183 Ill. App. 215 (1913); but the question of its validity was not discussed.

[2] Reaffirmed in People *ex rel.* Keller *v.* Village of Oak Park, 266 Ill. 365 (1915), where the ordinance in question required the consent of property owners within a radius of five hundred feet.

[3] Weeks *v.* Heurich, 40 App. D. C. 46 (1913).

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difficult to follow, the court apparently proceeded upon the theory that, since public garages might be entirely prohibited in residence districts, the provision which allowed the issuance of a permit with the consent of neighboring property owners was an advantage rather than a disadvantage to the applicant for such a permit.[1]

The supreme court of Delaware sustained a Wilmington ordinance which required the consent of neighboring property owners for a permit to erect or alter a public garage.[2] "The law is complete in itself wholly independent of what anyone may do or say, but if those whom the law was designed to protect consent that the thing prohibited may be done in a particular case, the prohibition is modified to that extent." The provision for the removal of the prohibition by the consent of adjoining owners "does not make it a delegation of legislative power." The ordinance is a reasonable exercise of the police power "for the preservation of the health, comfort and well-being of the people." The "saving clause in the ordinance" is "reasonable and fair both to the individual and to the public."[3]

A section of the New York City zoning ordinance authorized the board of appeals to grant a public garage permit in a residence district upon the consent of the "owners of eighty per cent of the frontage deemed by the board to be immediately

[1] This is probably what was meant when the court said: "In the present case, no restriction is placed upon the use of property; on the contrary, the regulation enlarges its usefulness. Proceeding without a permit, the taxicab company may use the property in question as it pleases, providing it does not trespass upon the rights of others. But armed with a legal permit, secured with the consent of the requisite number of property owners within the prescribed radius, its lawful use of its property is enlarged. It may go further and maintain an industry otherwise prohibited, free from the interference even of those who fail to consent; provided it is not negligently conducted, or conducted in disobedience of the terms of the permit. If the plaintiff should fail to sustain the averments of the bill, and show that defendant intends to use its property in an improper manner, the bill will be dismissed. The failure of defendant, therefore, to obtain a permit does not deprive it of any right secured by law."

[2] Myers *v.* Fortunato, 110 Atl. (Del.) 847 (1920).

[3] There was no reference to the case of Dangel *v.* Williams, 11 Del. Ch. 213 (1916), where an opposite opinion was expressed.

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affected." This section was recently construed by a lower New York court; but apparently no question was raised as to its validity.[1]

There are only two billboard cases in which ordinances involving the consent of property owners have been sustained. In one of these, a New York case, the applicant for permission to erect a billboard was required to present to the common council of Rochester either proof that he had given advance notice of his application, to the "owners, occupants or agents of all houses and lots within a distance of two hundred feet", or else "the written consent of such owners, occupants or agents."[2] Here it is manifest that the consent provided for was not a mandatory condition precedent; mere proof of notice could be presented in lieu of such consent. Moreover the permit was granted by the same body that enacted the ordinance —the council itself. Under these circumstances it is obvious that the consent could at most be regarded as merely advisory. It is not surprising, therefore, that the validity of this feature of the ordinance was neither questioned nor discussed.

Quite otherwise, however, was a case involving a Chicago ordinance which made it unlawful to erect a billboard in any block in any public street in which one-half of the buildings were used for residence purposes, without the consent of the owners of a majority of the frontage on both sides of the street in the block. It has been mentioned that a somewhat similar Chicago ordinance was held invalid by the Illinois Supreme Court.[3] This later ordinance was, however, upheld.[4] There

[1] People *ex rel.* Cotton *v.* Leo, 110 N. Y. Misc. 519 (1920). The New York city zoning ordinance which divides the city into three districts, business, residence, and unrestricted, has been held not to constitute an encumbrance upon real property but to be a proper exercise of the police power. Lincoln Trust Co. *v.* Williams Building Corporation, 229 N. Y. 313 (1920). In this case the court briefly referred to a long series of cases every one of which had turned upon the application of one or more of the usual subjects of the police power. There was no discussion whatever of the specific purposes that were to be served by this ordinance.

[2] Rochester *v.* West, 164 N. Y. 510 (1900).

[3] Chicago *v.* Gunning System, 214 Ill. 628 (1905), *supra*, p. 626.

[4] Cusack Co. *v.* City of Chicago, 267 Ill. 344 (1915). A somewhat futile

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was specific discussion of the relation of billboards to the matter of public safety, public order, public health and public morals. On the subject of property owners' consent the court merely declared that "a requirement of frontage consents of property owners, within reasonable limits, is a proper mode of exercising the power of regulation vested in the municipality."

This case was carried to the United States Supreme Court where the decision of the Illinois court was affirmed on grounds even broader than those advanced by the state court.[1] The power of regulation was directly referred to practically all of the usual subjects of the police power. On the specific point of the property owners' consent the court declared: "The claim is palpably frivolous that the validity of the ordinance is impaired by the provision that such billboards may be erected in such districts as are described, if the consent in writing is obtained of the owners of a majority of the frontage. . . . The plaintiff in error can not be injured, but obviously may be benefited, by this provision. For without it the prohibition of the erection of such billboards in such residence districts is absolute. He who is not injured by the operation of a law or ordinance can not be said to be deprived by it either of constitutional right or of property." The case was distinguished from the above-mentioned building-line case on the ground that in that case the ordinance permitted two-thirds of the lot owners to *impose* a restriction on other property owners while this ordinance permits one half of the lot owners to *remove* a restriction upon other owners which might have been made absolute.

Finally must be mentioned a case decided by a lower New York court in which was upheld an ordinance of Niagara Falls

effort was made to distinguish the two cases. The chief point of difference was that in the Gunning System case the part of the ordinance which regulated the size and construction of billboards was applicable to all parts of the city. The court had there said that these regulations might not be unreasonable if limited to particular districts. In the later case no such provisions were involved. In respect to the consent of property owners for the erection of billboards in residence streets the two ordinances were practically identical. On the point involving the validity of this part of the ordinances it is certain that the earlier case was overruled both in substance and in tenor.

[1] Cusack Co. *v.* City of Chicago, 242 U. S. 526 (1917).

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prohibiting the erection or operation of any factory within a designated residence district without the consent of the owners of two-thirds of the residences and apartment houses within a radius of two hundred feet.[1] The court relied upon certain United States Supreme Court cases involving exclusion districts for livery stables and brickyards.[2] These, however, were cases involving noxious enterprises, and the validity of the ordinances in question was expressly rested upon the usual subjects of the police power, especially the protection of the public health. It could scarcely be urged that the exclusion of all factories from a residence district was undertaken in the interest of the public health. Apparently the ordinance was upheld solely upon the ground that "the location and operation of a factory in these surroundings would greatly impair the value of property in this section and seriously interfere with its proper enjoyment in the purposes to which it has been heretofore devoted." In other words, a new subject of the police power was introduced—the protection, stabilization, or conservation of property values. The specific matter of the consent of property owners was not discussed.

IV

The maze of judicial contradiction upon the subject here under review invites a few comments.

1. The federal Supreme Court has declared it to be "palpably frivolous" for a person who has been refused consent by the owners of nearby property to complain of the provision requiring consent; he might have been worse off; the council might have made the prohibition absolute.[3] This argument is open to question. The complainant sees perchance that an owner in the next block, who has secured consent (perhaps his own consent only, if he happens to own property enough), is maintaining in identical surroundings the identical enterprise

[1] *In re* Russell, 158 N. Y. Supp. 162 (1916).

[2] Reinman *v.* Little Rock, 237 U. S. 171 (1915), and Hadacheck *v.* Sebastian, 239 U. S. 394 (1915).

[3] *Supra*, p. 633.

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which he, lacking consent, is forbidden to maintain. Is he denied the equal protection of the laws? If one in his circumstances cannot raise this question, who can bring it before the courts? Is he to be felicitated because the law, if it had been made to operate on all alike, might have treated someone else as severely as, in its actual operation, it has treated him?

2. Most of the ordinances in question have made the consent of property owners mandatory and not simply advisory. Doubtless there can be no reasonable objection to an advisory requirement as such. Even so, provision for such advice, if it is to be of any real service, would seem to imply that the permit-granting authority is vested with so wide a discretion that the ordinance might be defeated because it invests arbitrary power in an administrative officer. In other words, if the standards for the issuance of a permit are fixed by general ordinance—and many cases have held this to be essential to the validity of such ordinances [1]—why take the opinion of neighboring property owners? Surely their opinion cannot itself be regarded as a standard. With this question, however, we are not here concerned.

3. More than two-thirds of the ordinances here under consideration have provided for the consent of property owners only in exclusion districts within the city.[2] Where the ordinance creates no exclusion district, directly or by implication, refusal of consent by every group of property owners approached would effect a complete exclusion from the city. Even so, it merely results in such a case that the entire city becomes the exclusion district, which may or may not be reasonable. It is not the size of the district that is of importance but its reasonableness in relation to the nature of the

[1] *Supra*, p. 620.

[2] Sometimes the exclusion district results from the express terms of the ordinance as, for example, where a district is defined by street boundaries or where a residence district or block is defined in terms of a percentage of the buildings used for residence purposes. Sometimes it results merely from necessary implication as, for example, where the consent of the owners of neighboring stone or brick structures is required; presumably there are parts of the city, especially open parts, in which there are no neighboring stone or brick structures or residences.

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thing prohibited. This question of reasonableness is a judicial question,[1] to be determined by reference to specific municipal conditions as well as to facts concerning the enterprise that is subjected to exclusion.[2]

The point of importance is that this feature of the consent of property owners has no special relation to the question of exclusion districts. Nearly every one of these ordinances in terms or in effect operates to exclude this or that enterprise from a district, which may embrace the whole city or only a part of it. Within this district the ordinance authorizes neighboring property owners to dispense with the decree of exclusion. Four distinct questions arise: (1) determination of whether the particular enterprise is or is not one which may be regulated under the police power; (2) determination of whether the exclusion district method is or is not a proper method of regulation;[3] (3) determination of the reasonableness of the district in relation to the purpose sought; (4) determination of the propriety of allowing the owners of neighboring property to waive the exclusion otherwise decreed. This last question is wholly separable from any of the others. It is the only question with which we are here concerned.

4. Is it reasonable to vest in a group of property owners the power, upon request, to lift from an owner of neighboring property a prohibition that is otherwise imposed under the police power?[4] The courts have rested the validity of the prohibitions

[1] Curtis *v.* City of Los Angeles, 156 Pac. (Cal.) 462 (1916).

[2] Total exclusion from a city with close boundaries might be reasonable; while total exclusion from a city embracing large unbuilt areas might be unreasonable. Total exclusion of a soap factory or slaughter-house might not seriously interfere with such industries and might therefore be reasonable; but total exclusion of livery stables or public garages, not to mention such things as factories or retail stores, might practically destroy an essential business and might therefore be unreasonable.

[3] Manifestly many things that are subject to regulation under the police power would not lend themselves to regulation by the exclusion district method.

[4] The U. S. Supreme Court draws a distinction between authorizing the property owners to waive a prohibition and authorizing them to impose a prohibition, such, for example, as a building line. *Supra*, p. 633. The validity of this distinction is open to question. This building-line case did not assert that an ordinance of the city council establishing a building line would be invalid;

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contained in most of these ordinances upon the protection of the public health, safety, peace and morals. Let it be admitted, for the moment, that the owners of nearby property are more largely concerned than others in the protection of these interests in the neighborhood. Shall the owner of an isolated apartment house be permitted to erect and maintain a fire-trap with the consent of his tenants? Shall a grocer be allowed to sell deleterious foods with the consent of his customers? Shall a person be allowed to conduct an indecent exhibition with the consent of his patrons? Merely to ask such questions is to answer them.

The block or the circle of limited radius is the usual area that is fixed within the exclusion district for the requirement of the consent of owners. Is it a reasonable area? Is a fire hazard a danger only to the immediate block or charmed circle? Are conditions upon a particular piece of property which affect the public health or morals or peace, of no concern to the owners of property or the residents in an adjoining block or, for that matter, to an owner or resident in the next street whose property perchance backs upon the offending property? Everybody must recognize that in almost every area that is artificially created for governmental purposes there is perhaps almost inevitably an element of greater or less arbitrariness. But in consideration of the large and important interests that are here invoked to justify what might be made an absolute prohibition over a wide area, are not these diminutive "areas of consent" highly artificial and conspicuously arbitrary?

that question was expressly avoided. Had the ordinance fixed the line and provided that the owners of two-thirds of the property might consent to waive the restriction thus imposed, what, if any, would have been the practical difference? In the Eubank case the owners of two-thirds of the property could by positive action cause a building line to be fixed; by their non-action the property remained unrestricted. In the case supposed, these same owners could, by non-action (refusal of consent), cause a building line to be fixed; by their positive action (giving consent) the property remained unrestricted. In either case the action or non-action of the property owners would be the chief factor in determining whether or not a building line should be established. The cases are slightly different when the power of minorities is considered. In the Eubank case the owners of more than a third of the property could *prevent* the building line. In the supposed case these same owners could cause the line to prevail. But this is a matter of mathematics rather than of legal principle.

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But is it *owners* of neighboring property who are more largely concerned than others? Most of these ordinances require the consent of owners only; a few of them draw in residents or occupiers. In sizeable cities more frequently than not the owner is not the occupier. The absentee owner may be presumed to have an interest only in his property. His interest in the health, peace, or morals of the locality arises, if at all, from the indirect effect which the conservation of these interests may have upon the investment or market value of his property. His interest in the local public safety is confined to regard for the safety of his property, not for the safety of life and limb. The mere fact that it is usually the property owner and not the occupier who is vested with this power to waive a prohibition goes far toward supporting the view that the prime object of these provisions is not at all the protection of the health, safety, peace, and morals but is, on the contrary, the conservation of property values.

Indeed from every possible point of view (whether of the reasonableness of authorizing the individual to waive protection extended to him under the police power, or of the diminutive character of the areas of consent, or of the character of the persons in whose hands this power of waiver is placed) it seems fairly evident that nearly all of these ordinances have been directed, not so much to the end of securing the usual subjects of the police power, as to the end of conserving and stabilizing realty values or of promoting community æsthetics. Deliberately or unconsciously most of the courts have avoided the kind of close analysis that would bring them face to face with the necessity of including or excluding these new subjects as appropriate police-power subjects. In their search for precedents they have not discovered them. It has been easier to rely upon the old established subjects even though such reliance led them into lines of reasoning that would not bear searching criticism. Occasionally courts have admitted that the police power may be exercised "for the benefit of property owners generally," [1] or

[1] Welch *v.* Swasey, 214 U. S. 91 (1908).

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with consideration for "the value of the land and the demand for space," [1] or to protect the "value of residence property." [2] By no means, however, is the protection of property values a well recognized police-power subject. It is nevertheless difficult to see how modern zoning ordinances providing general business and residence districts are to be rationally sustained without the full recognition of the appropriateness of this subject. The exclusion, for example, of a retail store from a residence district cannot possibly be supported upon any other ground than consideration of property values or of æsthetics. Moreover, it is difficult to imagine a more appropriate use of the police power, than that which imposes a limitation upon the use of property for the protection of community property values.[3]

If the protection of property values were frankly admitted to be the purpose of most of the ordinances here under review, the requirement of the consent of the owners of neighboring property could probably be sustained without much strain upon intelligence. It would be reasonable to permit a community of property owners to waive a prohibition imposed with the end in view of protecting their property interests. It would be reasonable to create fairly small areas of consent. It would be the property owner and not the occupier who would be the chief party in interest. The fact is, however, that it is impossible to reconcile the requirement of owners' consent with a course of reasoning which sustains these ordinances by reference to the commonly accepted subjects of the police power.

5. To sustain these provisions requiring the consent of owners by invoking the arguments employed in the cases involving the validity of local option laws will be convincing only to one who has never attempted to follow the labyrinthian paths of judicial reasoning upon his subject. Fortunately in none of these instant cases have the courts penetrated far into this ancient

[1] Welch *v.* Swasey, 193 Mass. 364 (1907).

[2] State *ex rel.* Krittenbrink *v.* Withnell, 91 Neb. 101 (1912). *In re* Russell, 158 N. Y. Supp. 162 (1916), *supra*, p. 634.

[3] McBain, *American City Progress and the Law*, pp. 121-123.

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jungle of the law[1] They have referred to only one specific argument. Applied to these ordinances the argument amounts to this: the law is complete as it comes from the council; the property owners do not assist in its making; theirs is not legislative power; refusal of their consent is merely a "future contingency" upon which its *operation* is made to depend. This argument is none the less fictitious because it is venerable. Suffice it to say that the future contingency here is not a contingency of fact but a contingency of judgment and will—the judgment and will of persons outside the constituted law-making body. A law is not a law if it is inoperative. In any specific instance the operation, the effectuation, of the prohibitions written into these ordinances is undeniably the joint act of the city council and a group of property owners. And no amount of legalistic metaphysics will make it otherwise.

Regardless, however, of the many questionable arguments that have been employed by the courts in cases involving referenda, it is nevertheless true that the power of the legislature to enact local option laws has been widely sustained. Is the requirement in these ordinances of the consent of the owners of neighboring property analogous to the requirement of a vote, let us say, of the electors of a city upon a local option liquor law? Defects in this analogy are obvious. The people of a city constitute a political unit organized for governmental purposes. For many economic and social purposes they are a logical, a more or less natural, group. Directly or indirectly they determine numerous questions of public policy on subjects of community interest. That is the prime reason of their political organization. They must reside within the city; and if it be argued that they should not be permitted to waive the operation of a law avowedly enacted for the protection of their health, morals, and good order,[2] it may at least be answered

[1] McBain, "The Delegation of Legislative Power to Cities," in the POLITICAL SCIENCE QUARTERLY, vol. XXXII, pp. 276-295, 391-411.

[2] Permission to waive these interests may doubtless be justified in the case of a liquor law on the ground of the moot questions involved. No doubt the courts would hesitate to sustain a referendum on the question of whether persons suffering from smallpox should be quarantined.

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that the purpose of the law has a more or less direct personal relation to them.

On the other hand the owners of property in a block or a small circle are not an organized political unit. They are not a logical unit for any purpose, except possibly for the protection of their property values. They determine no questions of general public policy for the block or circle. They may not reside within the area of consent, and in consequence the avowed purpose of the law—the protection of health, morals, safety and good order—may have no personal relation to them. In other words, the analogy between the consent of property owners and the consent of the electors of a municipal unit is intriguing only in so far as the validity of these ordinances is rested, as it should be, upon the conservation of property values.

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PRESENT CONDITIONS IN CHINA

TO an old and long-time resident revisiting China after an absence of some time it must naturally be a matter of great interest to notice the changes that have taken place, for better or worse, during the last few years, in all that pertains to the welfare and prosperity of the Chinese people and to China as a nation. And naturally his first inquiries and observation will turn to the matter of government. What reform or improvement has the change of form of government in 1911 brought about? What is the status of the present government of China in its relations with other countries, and what benefits has the new form of government given to the Chinese people? The result of his observation in this direction will show very little that is pleasant or encouraging.

There exists at Peking the usual machinery of a republican government—a president, a cabinet composed of the heads of the various administrative departments, and a parliament of two houses. A similar organization exists at Canton, where Sun Yat Sen holds the presidency with Wu Ting Fang, formerly Chinese Minister at Washington, as Premier and Minister of Foreign Affairs. The Canton Government, or Southern Government, was set up in 1917 as a protest against the dissolution of Parliament by President Li Yuan-hung. Its founders called themselves Constitutionalists; their avowed object was the carrying on of government under the Provisional Constitution, which they claimed had been violated and discarded in the dissolution of the Parliament; and so their first move was an attempt to re-convene at Canton the Parliament which had been broken up at Peking. In this attempt they have never been fully successful; only a fraction of the membership of the old legislative body was ever brought together, and its acts are practically negligible. The provinces yielding a nominal allegiance to the Southern Government are Kwangtung, Kwangsi, Yunnan, Kueichow and Fukien, while the two great provinces of Szechuen and Hunan are of divided or disputed

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allegiance. All the provinces north of the Yangtze, with the provinces of Chekiang, Kiangsu, Kiangsi and Anhui, are nominally loyal to the Peking Government.

The Peking Government is the only one officially recognized by foreign powers, and it has the management of foreign relations, though without power to enforce, in a large part of Chinese territory, observance of its pacts or agreements made with foreign powers. It also administers the Post Office, the Customs and the Salt Tax Bureau, but only by sufferance of the provincial authorities and of the Southern Government, induced by fear of interference of foreign powers interested in the effective operation of these departments and by the allotment to the Southern Government of a substantial portion of the surplus revenue coming from them. Railways and telegraphs are under the Ministry of Communications of the Peking Government, but their functioning is everywhere subject to local interference to serve the purposes of provincial military officials. Outside of foreign relations and the partial administration of the departments just mentioned, the Peking Government has no effective control over the affairs of the various provinces nominally in allegiance to it. The power of taxation, the final test of effective authority, is confined to the collection of customs duties and the salt tax, the revenue from which sources is pledged, primarily, to secure the payment of China's debts to foreign nations. The surplus of this revenue, a portion of which has been allotted to the Canton Government, is the main source of supply for the expenses of the Government at Peking; and it is pitifully inadequate, even if it were honestly and economically used.

The Canton Government has even less power and authority than that of Peking; it was established merely as a protest, and has never served any practical purpose. The two or three honest and patriotic men who were its guiding spirits at first, were subsequently squeezed out, and replaced for a time by self-seeking men, who held office for what they could get out of it for themselves, and whose principal source of revenue was the licensing of gambling and vice. Within the last year, however, the original leaders of the Southern Government have

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resumed their places, and in Sun Yat Sen, Wu Ting Fang and Tang Shao Yi, the Southern Government has a trio of honest and patriotic men who have the confidence of their followers.

The Province of Yunnan has recently declared itself independent of both rival Governments, but its sympathies with the Southern Government as newly constituted are likely to lead to its renewed adhesion thereto.

There is no sectional issue between the people of the North and the people of the South. The interests of the North are not different from those of the South. It was more or less accident that the constitutional protestants chose Canton for the seat of their government rather than Shanghai or Nanking. The declaration of principle on which the Canton Government was nominally founded, namely, the upholding of the Constitution and the putting-down of military domination, represents the feelings and opinion of all right-thinking and patriotic men in the North as well as in the South. The people of the North do not want one thing and the people of the South another. It is only because the curse of militarism and unchecked use of power first developed in the Peking Government and the protest against it crystallized and took shape in Canton that the armed forces of the South came for a time to be arrayed against those of the North. Actual hostilities between them never assumed great proportions. Battles were fought in the provinces of Hunan and Szechuen with successes about equally divided, during 1917–18. Then, by mutual agreement, active hostilities were suspended—probably from want of resources on both sides to carry them on energetically; but fighting was renewed on a considerable scale in the summer of 1921 in Hunan Province.

A conference was called in 1918 to meet at Shanghai, to which delegates were appointed by the Peking and Canton Governments; but nothing has come of it, and no good result could be expected, for the Peking Government was dominated by the Military Governors of the North, and the Canton Government, originally started on a patriotic platform, soon came for a time under the control of a similar military element in the South. The abolition of militarism, the only basis on which a perma-

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nent peace and reunion are possible, could hardly be looked for under such circumstances; for whatever agreement might be reached by the delegates, many of whom were right-minded men, sincerely desirous of peace and unity, would have been contemptuously ignored by the Tuchuns of the various provinces, both North and South.

For the only real power and authority in China is in the hands of the Tuchuns or Military Governors of the separate provinces —each acting for himself in his own field, but working together in the concoction of plans and the adoption of means and devices to keep themselves in power. These Tuchuns, appointed to their posts by Yuan Shih-Kai in the days of his supremacy, or stepping into power in the times of confusion and disorganization following his decline and death, took advantage of the weakness and helplessness of the makeshift government at Peking to settle themselves firmly in their posts, to raise large armies controlled by themselves to serve their own ends, and thus to usurp complete autocratic local power, making themselves in fact, if not in name, independent of the Peking Government, to which they gave a nominal allegiance only in so far as their freedom of action was not interfered with and nothing was required of them with which they could not comply without detriment to their own interests, or curtailment of their authority within their own territory. To make themselves quite secure they formed a sort of league, or party, to uphold their interests at Peking, and got for their nominees the principal places in the cabinet and a dominant voice in Parliament. The Peking Government thus became a mere tool of the Tuchuns, and no measures could be put through to which the Tuchuns objected.

China is now, therefore, a conglomeration of separate states, under the autocratic control of Military Governors who tax their people to the limit of what they will bear, and who have raised large loans, principally from the Japanese, for which the provincial resources are pledged, for the support of their armies and their own enrichment. In most of the provinces no appreciable portion of the revenue thus raised is used for the benefit of the people—for prevention of flood and famine, for road-

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building, sanitary improvements, education, suppression of brigandage and security of travel and commerce; and no funds are remitted to Peking for the support of the central government. His own enrichment is the Tuchun's sole end, and it is to further this end that he makes judicious use of a large portion of his revenue for the support of his army and of the party leaders and satellites, high and low, who work to keep him in power. The armies thus maintained by the Tuchuns in all the provinces number well over a million men—a force which, properly organized, trained and equipped, at the service of a strong central government, would enable China to maintain her full sovereignty and national honor, to restore and preserve her unity and integrity, and to hold up her head amongst nations. As it is, these troops, in disconnected and unrelated segments, subject to a score of separate heads, serve no useful purpose to the nation, but exist only to keep in power a lot of selfish tyrants without patriotism or national feeling. Even for maintenance of order in the provinces where they are stationed, these armies are useless, or worse than useless. The inhabitants of districts where garrisons are stationed are subject to constant bullying and exactions from the soldiery, and when their pay is in arrears the troops take to looting, or desert and turn brigands. To be alternately a bandit and a soldier is a common experience.

On the trade routes in Szechuen and Hunan, and to some extent in other provinces, extortion by military officers and troops and robbery by bandits, in the same neighborhood and on the same day, are common occurrences. In the Canton district piracy, always rife, has become worse than ever before. On the railways, trains are frequently held to suit the convenience of the military officials, or diverted from their regular service to the transportation of troops and military stores; and when soldiers are sent by regular passenger trains they overrun all the cars, without distinction of class, with overbearing insolence disregarding the rights of passengers—all this in peaceful localities, and much worse in the regions where fighting is going on.

These armies are a horrible incubus upon the people; and

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the system which keeps them up is intolerable. Only through its complete uprooting can any permanent improvement come in the condition of China; and the difficulties in the way of such uprooting are formidable if not insurmountable. In the first place, there is no force in China strong enough to compel the disbandment of the provincial armies. The Peking Government in the past has been, and to a very considerable extent still is, controlled by militarists and kept in power by them; for it to go against the Tuchuns would be to bring about its own dissolution. But even if there were a government of honest and able patriots at Peking it could not immediately bring about the downfall of the militaristic system. To enforce the disbandment of the provincial armies there must be strong military support for the central government, an army large enough, good enough and well enough trained and equipped to convince the Tuchuns that the decrees of the government cannot safely be disregarded. Naturally they will not give up their lucrative posts and great powers except under compulsion. But the Central Government, even if purified and purged, would need large funds to raise and support an army such as would be necessary to destroy the vampire which is sucking the life-blood of the nation; and it is not apparent where such funds would come from. If a government should be set up at Peking composed of patriotic men of honesty and ability, able to convince the representatives of Foreign Powers of their sincerity of purpose and probable success, financial aid would doubtless be given in the shape of international loans. But even if a new government should have the necessary financial and military strength to enable it to turn out the Tuchuns, the disbandment of the provincial armies would still remain a problem very difficult to deal with.

The pay of these armies is greatly in arrears. Before the men can be discharged their wages must be paid up to date; and, further, some provision must be made for employing in useful work the men discharged, many of whom would, otherwise, turn to brigandage and highway robbery. To pay the men off and keep them employed in constructive work such as the building of roads and bridges, dikes for flood prevention,

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repairs to canals and waterways, and the like, would require scores of millions of dollars—some of which the deposed Tuchuns might be made to disgorge under pressure. A considerable number of the provincial troops might be taken into a new national army, but still the financial and social problems would remain exceedingly difficult to meet, because they must be met at the very beginning of a reformed administration, before the improved financial situation which would eventually follow the reform has had a chance to make itself felt.

The Northern Military Party which has had control of the Peking Government for the last four years, has from the first been divided into two factions, known as the Chihli and the Anhui factions, and the high offices and lucrative posts have been shared between them. Gradually, however, the Anhui faction, through the instrumentality of the An Fu Club or party, obtained more than its due share of the influential positions, and became the strongest factor in the Peking Government. This was resented by the Chihli faction, and there developed increasing friction between the leaders of the two factions—Tuan Chi-Jui, the acknowledged head of the Anfuites, former Premier, and later, Field Marshal; and Tsao Kun, Tuchun of Chihli, champion of the Chihli faction. It does not distinctly appear that any principle or question of national policy was involved in this dispute, which is generally regarded as merely a quarrel amongst factions over division of the spoils.

The quarrel grew until in July, 1920, it developed into open warfare. Tsao Kun and Wu Pei-fu, a strong general, who had made a name for himself in Hunan Province, demanded of the President, in threatening terms, the dismissal of General Hsu Shu-tseng, Tuan's favorite general, who held a post of great power and a very lucrative one in Mongolia. The President issued a mandate removing Hsu from his post; whereupon Tuan visited the President, and, menacing him with armed compulsion, demanded in his turn, the dismissal of Tsao Kun and dismissal and trial by court-martial of Wu Pei-fu. A second mandate was accordingly issued in the terms of Tuan's demand. Both mandates were ignored, and preparations for war proceeded on both sides. Chang Tso-lin, the powerful Tuchun

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of Fengtien, while plainly showing that his sympathy was with the Chihli faction, offered mediation without effect, and threatened armed intervention, thus bringing a third powerful factor into the situation. The President issued a third mandate, deprecating his own want of virtue and ability, and commanding and beseeching the leaders of both sides to refrain from fighting and not to add civil war to the sufferings which the people had already to bear from flood and drought. This mandate had no more effect than the two which preceded it; and the forces of the two factions clashed in battle fifty miles south of Peking, July 16–17. The battle resulted in a decisive victory for Wu Pei-fu. Tuan's forces retreated towards Peking, and on July 17, Wu had pursued them to a point fifteen miles from the capital. Then came another mandate from the President, commanding both sides to cease hostilities. Tuan acknowledged himself beaten, and resigned his post as Field Marshal. It was reported that he even attempted to commit suicide. Three An Fu members of the cabinet were dismissed, and the principal officials belonging to that party were removed and punishment decreed.

The presidential mandate cashiering Tsao Kun and Wu Pei-fu was canceled; and the Chihli faction became undisputed masters of the situation. Then the Mukden Tuchun, Chang Tso-lin, stepped in and showed a strong appetite for the chestnuts which Wu Pei-fu had pulled out of the fire. Backed up by his large army, he immediately assumed a leading part in the terms of settlement, and in the redistribution of important posts; and in his acts and demands he ignored, or held in slight estimation, the claims to leadership of Wu Pei-fu, whom he chose to treat as merely a subordinate general. If, however, there is one actor in this political movement who is actuated by patriotic motives and not merely by personal ambition, that one, in the general estimation, is Wu Pei-fu. Moreover, Wu has shown ability and tenacity of purpose and he appears to have won the admiration and good will of his own troops. He is not likely to acquiesce in a settlement of affairs at Peking which leaves him out, or brushes aside his claim to sit amongst the leaders. There are good grounds for prophesying that

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there is to be a struggle between Wu Pei-fu and Chang Tso-lin, and that there will be no permanent peace until Wu's claims are either recognized or quashed. Popular sentiment appears to be with Wu.

The Military Governors are not all equally bad. One notable exception to the general rule is Governor Yen Hsi-shan of Shansi Province. While quite as much an autocrat as the others, Governor Yen has shown clearly that he has the welfare of his people at heart, and is working in their interest. He maintains order in his province, keeps his troops in strict discipline, and uses his funds freely for the establishment and maintenance of public works and private industries. He takes a keen interest in education and has established public schools throughout the province. He rigidly suppresses the opium traffic, which has revived to a fearful extent in some of the other provinces, where the governors and their subordinates find it a plentiful source of revenue, and encourage it accordingly, in complete disregard of the national prohibition. In fact, Governor Yen seems to be a model ruler; and if he could assume leadership in the larger field of the central government, the chances of thorough reform in China would be greatly improved. Possibly, in him China may find her salvation.

The atrocious evils of the military government are, of course, felt and deplored by all right-thinking Chinese; but the activities of the comparatively small number whose patriotism is of a strength and quality to move them to action, are directed first and principally against Japan, whose overbearing attitude and repeated and increasing encroachments have roused deep hatred and indignation in all Chinese who have any national feeling. This hatred has resulted in a wide-spread boycott of Japanese goods and Japanese shipping. This boycott has in most cases been started and extended by associations of students, who have by street oratory and by systematic house-to-house visits engaged the sympathy and cooperation of merchants, shopkeepers, trade gilds and large numbers of the people generally. They have not hesitated, in many instances, to enter, in bands, Chinese shops where Japanese goods were kept for sale, and to seize and destroy such goods.

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By these acts, and by less forcible persuasion, they have seriously reduced the demand for Japanese goods and placed under a ban their fellow countrymen who continue to deal in them. The large fleet of Japanese steamers plying in Chinese waters gets little or no freight from Chinese shippers, and while statistics are not yet available to show the extent to which Japanese trade in China has suffered, it must be that the falling-off is very serious; and the boycott spirit is not weakening.

It is perhaps not surprising that patriotism and national feeling should thus show themselves most prominently in this practical resentment towards Japan; but if the agitators and promoters of the boycott would turn their energy and zeal toward a national organized movement for the overthrow of their own pernicious military system and the establishment of a clean government, first in each district and each province, and then at the Capital, they not only might rescue their country from its internal enemies, but would be taking the course most likely to put an end to the Japanese menace; for under a strong, clean, honest government, China would have no reason to fear continuation of the aggression and encroachments which a corrupt and weak government invites. But since national feeling in its practical expression has turned first of all to this movement against Japan it may be of interest to us to inquire what good reasons the Chinese have for their fear, distrust and hatred of their neighbor. They have always before them the fate of Korea and the Japanese promises and pledges successively broken, which punctuate the story of the annexation of that nation.

In August, 1894, after her victorious war with China, Japan signed a treaty of alliance with Korea, which began with the declaration that the object of the alliance was "to maintain the independence of Korea on a firm footing". In April, 1898, a treaty was made between Japan and Russia, in which the two governments "recognize definitely the sovereignty and entire independence of Korea and pledge themselves mutually to abstain from all direct interference in the internal affairs of that country." The treaty of alliance between Japan and Great Britain signed in January, 1902, sets forth that "the High Con-

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tracting Parties having mutually recognized the independence of China and Korea, declare themselves entirely uninfluenced by any aggressive tendencies in either country." In February, 1904, an agreement was signed by Japan and Korea, in which it is laid down that "the Imperial Government of Korea shall place full confidence in the Imperial Government of Japan in regard to improvements in administration,"—the first step in the insidious process of absorption; but still it is provided in this same agreement that "the Imperial Government of Japan definitely guarantees the independence and territorial integrity of the Korean Empire."

The second treaty of alliance between Japan and Great Britain, signed in August, 1905, contains a provision to the effect that "Japan possessing paramount political, military and economic interests in Korea, Great Britain recognizes the right of Japan to take such measures in Korea as she may deem proper" —a recognition which reflects no credit on the British Government, and which smoothed the way for Japan's next move. In November, 1905, Korea was forced to sign a convention with Japan wherein it was set forth that "the government of Japan will hereafter have control and direction of the external relations and affairs of Korea." The next convention, signed in July, 1907, provided that "in all matters relating to the reform of Korean administration the Korean Government shall receive instructions and guidance from the Resident General" (such being the title assumed by the Japanese representative at Seoul), and in another article of the same convention it was agreed that "the Korean Government shall appoint to be officials of Korea any Japanese subjects recommended by the Resident General." Thus, one by one, Korea was forced to give up the functions of an independent government; and thus Japan made naught of repeated pledges and declarations. But even after this, in 1908, Prince Ito, the Resident General at Seoul, publicly declared that Japan had no intention of annexing Korea; and it was not until August, 1910, that Japan formally announced the annexation of Korea to the Japanese Empire.

In the story of Korea the Chinese see a warning for their

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own country, and believe that they have good reason to fear that the government which has broken its pledges and belied its declarations with regard to Korea will not hesitate to go to any length possible in its encroachments on China; for China, though a great nation in territory and population, is weaker than ever before, through internal dissension, corrupt and incompetent government and lack of unity and national sentiment.

Japan has signed treaties and conventions at various times between 1905 and 1918 with Great Britain, France, Russia and the United States, in all of which the contracting parties bind themselves to work together for the preservation of the common interest of all Powers in China, by insuring the independence and integrity of the Chinese Government, and the principle of equal opportunity for the commerce and industry of all nations in China. The phraseology of the pertinent paragraphs in all these agreements, six in number, is practically the same, but the latest one, the Lansing-Ishii agreement of November, 1917, is a little more explicit than earlier ones; and besides disclaiming "any purpose to infringe in any way the independence or territorial integrity of China" and declaring "adherence to the principle of the so-called Open Door, or equal opportunity for the commerce and industry of all nations in China", the parties to the agreement "mutually declare that they are opposed to the acquisition by any government of any special rights or privileges that would affect the independence or territorial integrity of China, *or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce aud industry of China.*"

In these various agreements we have an explicit undertaking by Japan, in common with the nations with whom the agreements were made, not to seek for her own government or people any special rights or privileges which would affect the sovereign rights of China, or which would not be open equally to the governments and citizens of other nations. How has Japan fulfilled that undertaking? With the Liao Tung Peninsula as a base, Japan has gradually extended her economic control over all of South Manchuria. The South Manchurian railway from

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Harbin to Dairen, which passed into the hands of the Japanese Government as a result of the successful war waged against Russia, owns and operates coal mines, iron works and other industries; and the protection of the road and the industries furnishes an excuse for the maintenance on Chinese soil of a large number of Japanese troops and a considerable police force, so that China's sovereignty in large portions of her territory is made to appear merely nominal.

In January, 1910, the Japanese Government successfully protested against a plan approved by the United States, Great Britain and China, by which American and British capitalists were to build a railway from Chin Chou to Aigun, through territory partly in Manchuria, partly in Mongolia, and partly in China proper. The protest was based on the claim that the proposed road would affect the business of the South Manchurian Railway; and it was accompanied by a reference to a secret protocol signed by China and Japan in 1905, whereby the Chinese government undertook not to construct, prior to the recovery by them of the South Manchurian Railway (due in the year 2002) any line of railway which might be prejudicial to the interests of the said South Manchurian. The protest was so vigorously worded and the consequences of its disregard made to appear so serious that the Chinese Government did not dare to proceed with the scheme for the Aigun Railway. Was not the action of Japan in this matter an interference with the independent action of China, and a denial of equal commercial rights to the people of other nations in Chinese territory?

In January, 1915, Japan presented to China her famous Twenty-one Demands. These demands were strongly resisted by China, and in the end some of the worst of them were modified or "reserved for future consideration." Probably the notoriety which her action had attained in the eyes of the world, and the unfavorable comments of the foreign press, perhaps even official hints from foreign governments, caused Japan to refrain from pushing her full scheme to the limit. But an irreducible minimum of the demands, including the Kiaochow and Shantung rights, and the special privileges for Japanese in

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Manchuria, was set before China to agree to, under threat of armed compulsion, and China could not help herself.

That these demands involved glaring and serious infringements of China's independence and the exercise of her sovereign rights, and that they sought special and peculiar privileges and status in China for Japan and the Japanese, cannot be denied. That not all of them were pressed to the last extremity does not alter these facts. Japan made the demands; and in making them she broke her public promises and agreements. And she obtained, by threats and intimidation, China's consent to concessions involving a humiliating surrender of sovereign rights. Is it surprising that the Chinese distrust Japan—that they look with anxiety and suspicion for the next encroaching step?

The one thing above all others which has stirred the Chinese people—those of them who think and have some national feeling—is Japan's failure to restore to China the territory of Kiaochow recovered from the Germans in 1914, and Japan's pursuit within that territory of a policy of systematic annoyance, persecution and oppression directed against Chinese and European residents, in order to keep for Japanese all the desirable and profitable places and enterprises. The intensity of popular feeling on this subject kept the Chinese delegates to the Peace Conference from signing the Peace Treaty, which transferred to Japan all the rights and privileges which Germany had had in Shantung; and it has long kept the Chinese Foreign Office from entering into any negotiations with Japan for a conditional and partial restoration; for no Minister has dared to go against the strong public opinion which holds that this is not a matter for negotiation with Japan, but a question of national honor to be brought before the League of Nations. This may be a wrong attitude to take; perhaps the conditions which Japan would impose on the restoration of Shantung to China might prove acceptable, consistently with the upholding of China's honor and interests. At any rate it would seem that there could be no harm in going so far in negotiation as to find out what those conditions would be.

As for Japan's own interests in this matter, if it were her

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purpose to gain political control in China, and by forcible intrusion to get for her subjects special privileges in trade and industry, at the expense of the Chinese themselves and of other foreigners, she would undoubtedly find that the possession of Kiaochow, and the power of dominating in the industrial and commercial field in Shantung Province, would be a very great help in attaining her purpose. For the east side of the Gulf of Pe Chihli is already controlled by Japan, and the possession of, or domination over, Shantung would enable her to shut up that gulf, and cut off access by water to Tientsin and Peking, as well as to take possession of the Tientsin-Pukow railway, the main line of land communication between the North and the South. If Japan had, I say, this aggressive purpose, the possession of Shantung would be of great importance to her; and so, of course, it is of vital importance to China to recover and keep full and unquestioned control over the whole of the Province. But if Japan, as she has so often and so plainly declared, has no intention to acquire any special rights or privileges that would affect the independence or territorial integrity of China, or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China—if her purpose is, by legitimate means, to increase her trade with China and, making full use of her natural advantages of propinquity and racial and lingual relationship, to find in China a limitless market for her goods, then her only wise and safe course is to hasten to prove her good faith, and by a timely rendition of Kiaochow and renunciation of all her special claims in Shantung, to turn a bitter enemy into a friend, whose friendship, with fair dealing on both sides, will be to Japan a constant and increasing source of profit and of national strength. With this, we may leave the subject of the grievances against Japan; though we have barely touched upon the extraordinary abuse by the Japanese of their so-called "economic privileges" in Manchuria and Shantung, whereby, through vexatious regulations, domineering conduct and petty persecution, the property rights, freedom of action, comfort and convenience of the Chinese and, to a great extent, of European residents, are curtailed and subordinated to the political

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and business greed of the Japanese; and we have not mentioned the tragedy of the morphia traffic, whereby a morbid and destructive appetite for pernicious drugs is fostered and fed through a clandestine trade carried on principally by Japanese —a trade which could be checked, if not entirely stopped, by ordinary vigilance on the part of the Japanese Government. These two subjects would require a lengthy paper for their adequate presentation.

In her external relations, besides her grievances against Japan, China chafes under four of a more general nature, touching her intercourse with all the foreign powers:

(1) She is denied the right to fix her own customs tariff, or even to alter rates without the consent of all the Powers with whom she has treaties.

(2) Foreign Governments have established their own Post Offices on her soil, and refuse to withdraw them, though the Chinese National Post Office has thoroughly proved its efficiency and ability to deal satisfactorily with all postal business.

(3) She wants the abolition, immediate or progressive, of the extra-territorial privileges under which foreigners living in China are exempt from the jurisdiction of Chinese courts and officials.

(4) She wants the removal from her territory of the foreign garrisons which were imposed upon her after the Boxer trouble.

These external grievances will probably be brought before the League of Nations, or some other international tribunal, and remedied, in whole or in part. But the remedy for the internal evils can only come from within. The country is divided; it is ruled by military despots who, with rare exceptions, do nothing for the welfare of the people; brigandage is rife in the North and West, and piracy in the South; trade, commerce and industry are seriously menaced; bribery and corruption, open and unblushing, are looked upon as a matter of course; and the growth of opium has revived to an alarming extent, with the connivance of the provincial officials. The League of Nations cannot deal with these evils—unless by putting the government temporarily into the hands of a commission of its own appointing—a proceeding which has been seriously advocated and may

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yet prove to be the only adequate means of restoring China to health, although the Chinese are far from willing to entertain any such proposal at present.

In spite of internal disorder and misgovernment, trade has appeared to flourish in China during these last few years. Under more favorable internal conditions the increase in commerce would doubtless have been much greater; for the circumstances attending the European war had brought about a heavy demand for many Chinese products at good prices, and the habitual industry and trading genius of the Chinese people enabled them to meet this demand, in spite of the discouragements caused by official exactions and brigandage. The trade of the year 1919, measured by the customs revenue, was the largest on record; but in the late months of that year and the early months of 1920, the great rise in the value of silver, which is China's currency, or, to put it the other way, the decreased purchasing power of the currency of gold-using countries, caused a serious falling-off in the demand for China's products abroad. A pound sterling, which would purchase about eleven Mexican dollars' worth of Chinese products in 1915, would buy only three and one-half dollars' worth at the end of 1919, for the prices in silver of Chinese goods did not go down, notwithstanding the great rise in the value of silver; and the gold prices of goods imported into China from Europe and America, though higher of course than before the war, did not in their rise keep pace, even approximately, with the great increase in the value of silver. Under such circumstances a falling-off in demand for Chinese goods was inevitable, and the export business received a sudden and serious check in the winter and spring of 1920. Silver exchange, however, took a downward turn in the spring, and the Shanghai tael which, in February, had reached a quotation of nine shillings, or about $1.55 in American gold, fell rapidly to four shillings, or 76 cents. Lower exchange has prevailed since, and conditions are improving.

The frequent and violent fluctuations in silver value and exchange rates which have occurred during the last three years upset the calculations of merchants, and are, of course, a serious

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handicap to legitimate commerce, while causing a perfect furore of gambling in exchange at the principal commercial centres. But even with a steady and favorable exchange, there can be no more than a gradual, moderate increase in China's foreign trade without a great improvement of internal transportation facilities and development of mineral resources. Since the revolution in 1911, little or nothing has been done in the way of railway construction. Lines that were projected and partially surveyed have got no farther; and lines that were partially constructed remain unfinished—even the great trunk line from Hankow to Canton has got only as far as Changsha in Hunan, all funds being exhausted—partly through misappropriation. Without foreign money no further progress in railway construction can be made, for the Chinese will not take stock in or lend their money to an enterprise of their own weak and corrupt government. And further foreign loans are at present out of the question, for want of adequate guaranties for the proper use of funds loaned, which can only be had under a thoroughly reformed government.

The question of the development of mineral resources is, of course, bound up with that of transportation. There are plenty of capitalists, both foreign and Chinese, willing and anxious to get mining concessions, under conditions which could be made fair to the Chinese Government, while still profitable to the concessionaires; but the concessions must come from a government able to guarantee the enjoyment of the privileges which it grants; and the conditions of the concessions must be based on laws passed by a duly constituted legislative body.

Thus China's internal peace and prosperity, the security, liberty, and comfortable conditions of her people, protection from floods, drought and famine, the establishment and growth of trade, industries and transportation facilities, and the development of her resources, as well as the maintenance of her independence and sovereign rights against encroachments from without, all depend upon the overthrow of the existing militaristic domination, the clearing-out of the robber Tuchuns and their satellites at Peking, and the setting-up of a government of honest and patriotic men of ability and strength of purpose.

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Some of the difficulties in the accomplishment of such a radical reform have already been referred to, but probably the chief obstacle in the way is the prevailing traditional lack of financial honesty, as we understand the word, in Chinese official life, from the highest to the lowest positions. Chinese officials and their subordinates have always looked upon their tenure of office largely, if not chiefly, as an opportunity to enrich themselves; and even those officials—and they have been many—who feel the responsibility of their positions, and endeavor to administer their offices conscientiously, do not neglect opportunities to "make hay while the sun shines"; they must get back what the office has cost them and as much more as they can get, by methods which would not be reckoned honest in western countries, though sanctioned by tradition in China. Thus official positions have a commercial value; they are obtained by presents or bribery, and are worked to make the investment profitable. Ten years of a Republican régime have not altered this evil. A change in the form of government could hardly be expected to put an end to a traditional and hereditary habit, which has become almost an instinct. Indeed, it is probable that official greed and dishonesty are worse since the downfall of the Empire than ever before; for the Tuchuns feel responsibility to no higher power; minor posts are sold by them without regard to the character and ability of the purchasers; while the introduction of the ballot, of legislative and other elective positions, makes a wider field for bribery. The legislators bribe the voters to secure their election, and are in turn bribed by persons interested in the success or failure of legislative bills. Such bribery is common, unconcealed, and unpunished.

The prevalence of this way of looking on public office is a basic obstacle to reform. Until there is a great change in this respect, there can be no thorough and lasting improvement in the government. Such a change cannot be easily or quickly brought about, but if the Tuchun system can be overthrown and a better government and a new Parliament installed at Peking, much can be accomplished by the institution of a system whereby the holders of official positions, large or small, shall

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receive fixed and adequate salaries and be held to strict accountability for receipts and expenditure, under severe and impartial penalties for false returns or defalcations.

With a few years under such a system strictly adhered to, and the example of offenders consistently punished, the prevalent habit of regarding public office as an opportunity for private gain, would gradually die out. The introduction of such a system by the present corrupt government is, however, out of the question. A new government of some sort, if only moderately good, must come first. How this is to be brought about does not yet appear. The Anfuites are out, and the Chihli faction is in; but it is not yet clear whether this change will accomplish anything more than a redistribution of important and lucrative posts. Wu Pei-fu, the victorious general and outstanding figure in the party now in power, has indeed set forth a program which includes the dissolution of the present Parliament and the convocation of a national assembly so chosen as to represent the best elements of the population, to deal with the making of election laws, the making of a new constitution, or the readoption of the discarded old one, the election of a new parliament, and through these steps, the bringing about of reunion between the North and the South. If he be sincere, and if he has sufficient strength and pertinacity to push to the utmost his ideas of reform, a good start may be made. The President, Hsu Shih-Chang, however well-meaning he may be, has shown no strength of character. He has been intimidated by one schemer after another, and has never taken a manly stand for the upholding of the authority and dignity of the presidential office. The legality of his election has always been denied by the Constitutionalists, because he was elected, they say, by an illegal Parliament. It is quite probable, therefore, that the formation of a Constitutional Parliament would be followed by the resignation of Hsu and the election of a new President.

The quality of the personnel of the new Parliament will determine the quality of the new government; for the Parliament elects the President and has the power of rejecting his nominees for Cabinet Ministers. Here, then, lies the proper field for the

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organized energy and exertion of the student class, which have been shown, hitherto, chiefly in their antagonism of Japanese encroachments. Let the students of all the Provinces cooperate, and working with and through the leaders of the gentry and of the agricultural, commercial and industrial elements of the population in every district, influence and control the election of members of the new Parliament. Let them discourage and discountenance by emphatic means which they know so well how to employ, bribery and corruption by self-seeking candidates, and work for the election of honest men of character and ability. The limitations of the suffrage would render such work comparatively easy. An individual appeal to every authorized voter would not, perhaps, be an impossibility. From such a campaign, if infused with anything like the spirit and resourcefulness of the procedure which brought about the boycott against Japan, great good must result. There is reason to believe that such a movement is coming. If it fails, then temporary effective intervention in government by a commission of the foreign powers is the only apparent resource.

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LORD BRYCE ON MODERN DEMOCRACIES[1]

Many years ago, at a time when schemes of political reform were being copiously discussed in England, mostly on general principles, but also with references, usually vague and disconnected, to history and to events happening in other countries, it occurred to me that something might be done to provide a solid basis for argument and judgment by examining a certain number of popular governments in their actual working, comparing them with one another, and setting forth the various merits and defects which belonged to each. As I could not find that any such comparative study had been undertaken, I formed the idea of attempting it, and besides visiting Switzerland and other parts of Europe, betook myself to the United States and Canada, to Spanish America and Australia and New Zealand, in search of materials, completing these journeys shortly before the war of 1914 broke out. The undertaking proved longer and more toilsome than had been expected; and frequent interruptions due to the War have delayed the publication of the book until now, when in some countries conditions are no longer what they were when I studied them eight or ten years ago. . . . [But] it is not current politics but democracy as a form of government that I seek to describe. Events that happened ten years ago may be for this particular purpose just as instructive as if they were happening to-day.

Such are the circumstances to which we owe the good fortune of possessing these two substantial volumes. It is a good fortune indeed! If Lord Bryce in his youth had resolved that in his old age he would write such a book as this one, he could scarcely have prepared himself for the task better than he has in fact done. Familiar with the ancient world as if the classics had been his daily companions, celebrated among German professors of history for his brilliant interpretation of the Holy Roman Empire; distinguished in his own country as a statesman; in the United States honored as an ambassador, beloved as a friend, appreciated as an expounder and critic of our institutions; traveler in many lands, associating with all sorts and conditions of people, ceaselessly observing, insatiably inquiring, storing up endless knowledge of facts from the odor of intrigue in the Palais Bourbon to the exact elevation above sea-level of Lawrence, Kansas — who indeed could give us a comparative study of modern democracies "in their actual working" if not James

[1] *Modern Democracies.* By VISCOUNT JAMES BRYCE. The Macmillan Company, 1921.—Two vols.: xv, 508; vi, 676 pp.

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Bryce, whose ripe wisdom springs from a reflecting mind so fortified by contact with men and things, so richly stored with knowledge of past and present events, so humanely liberalized by familiar converse with the best that has been thought and said in the world?

In dealing with words one cannot always be as masterful as Humpty Dumpty, but democracy is one of the words which can be made to mean, within reason, pretty much what one wishes. The term democracy, says Lord Bryce,

> has in recent years been loosely used to denote sometimes a state of society, sometimes a state of mind, sometimes a quality in manners. It has become encrusted with all sorts of associations attractive or repulsive, ethical or poetical, or even religious. But democracy really means nothing more or less than the rule of the whole people expressing their sovereign will by their votes. (p. ix).

It might be questioned whether democracy "really means" nothing more than this; but it is an author's privilege to determine the limits of his subject, and Lord Bryce leaves us in no doubt as to what democracy is to mean for the purposes of the present study.

> In this book I use the word in its old and restricted sense, as denoting a government in which the will of the majority of qualified citizens rules, taking the qualified citizens to constitute the great bulk of the inhabitants, say, roughly, at least three-fourths, so that the physical force of the citizens coincides (broadly speaking) with the voting power. Using this test, we may apply the name to the United Kingdom and the British self-governing Dominions, to France, Italy, Portugal, Belgium, Holland, Denmark, Sweden, Norway, Greece, the United States, Argentina, and possibly Chile and Uruguay. (I, p. 22).

This definition excludes Germany, Austria-Hungary, and all of the Balkan states except Greece, as those states were before the war. "Of the newer European states it is too soon to speak, and whatever we may call the republics of Central America and the Caribbean Sea, they are not democracies."

Thus defined and limited, Lord Bryce has chosen to present his subject under three main divisions. Part I has to do with considerations applicable to democratic government in general, and serves as an introduction to Part II, which deals with certain actual modern democracies. In Part II "six countries have been selected for treatment: two old European States, France and Switzerland; two newer States in the Western hemisphere, the American Union and Canada; and two in the Southern hemisphere, Australia and New Zealand" (I, p. 7). Great Britain was deliberately omitted because

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no citizen of Great Britain "who has himself taken a part in politics as a member, during forty years, of legislatures and cabinets, can expect to be credited with impartiality" (*ibid.*). The danger of partial treatment involved in a description of the British government by Lord Bryce we should have met with great equanimity; but if the inclusion of Great Britain meant the omission of Switzerland, we are not sorry to see Great Britain excluded, since Switzerland best exhibits the characteristics of democracy in small states, just as the characteristics of democracy on a grand scale are best exhibited in the United States. Perhaps as it is the book is a little over-freighted with English-speaking countries, but in general the selection is wide and representative enough. Having dealt rather fully with these six countries, the work closes with Part III — twenty-three chapters of comment and criticism based upon the foregoing study. As to the general character and merit of the book, nothing more need be said than that it resembles in both respects the *American Commonwealth*, doing for modern democracies what the *American Commonwealth* did for what Lord Bryce himself called the greatest of modern democracies.

Toward the end of the eighteenth century, when the spirit of reform was in the air, the best minds believed that with Authority dethroned, Reason would reign instead.

> Reason, accompanied and inspired by Justice, was expected to usher in a better world, with the sister angel Fraternity following in their train, because human nature itself would be renovated. Inequality and repression had engendered one set of vices in rulers and another in their subjects. . . . Under good government—and in an age of reason little government would be needed—human nature, no longer corrupted by examples of successful wickedness, would return to the pristine virtues the Creator had meant to implant. . . . These beliefs were the motive power which for a time made faith in democracy almost a religion. (I, p. 46).

The bright glamor of this ideal has departed long since; but many men still have faith in democracy as Lord Bryce defines it, still treasure a vision of things as they might be. Lord Bryce is evidently one of these; and this ideal democratic community he describes for us, "in terms of our own day".

> In it the average citizen will give close and constant attention to public affairs, recognizing that this is his interest as well as his duty. He will try to comprehend the main issues of policy, bringing to them an independent and impartial mind, which thinks first not of his

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own but of the general interest. If, owing to inevitable difference of opinion as to what are the measures needed for the general welfare, parties become inevitable, he will join one, and will attend its meetings, but will repress the impulses of party spirit. Never failing to come to the polls, he will vote for his party candidate only if satisfied by his capacity and honesty. He will be ready to serve on a local Board or Council, and to be put forward as a candidate for the legislature (if satisfied of his own competence), because public service is recognized as a duty. With such citizens as electors, the legislature will be composed of upright and capable men, single-minded in their wish to serve the nation. Bribery in constituencies, corruption among public servants, will have disappeared. Leaders may not be always single-minded, nor assemblies always wise, nor administrators efficient, but all will at any rate be honest and zealous, so that an atmosphere of confidence and good will will prevail. Most of the causes that make for strife will be absent, for there will be no privileges, no advantages to excite jealousy. Office will be sought only because it gives opportunities for useful service. Power will be shared by all, and a career open to all alike. Even if the law does not—perhaps it cannot—prevent the accumulation of fortunes, these will be few and not inordinate, for public vigilance will close the illegitimate paths to wealth. All but the most depraved persons will obey and support the law, feeling it to be their own. There will be no excuse for violence, because the constitution will provide a remedy for every grievance. Equality will produce a sense of human solidarity, will refine manners, and increase brotherly kindness. (I, p. 48).

This is an admirable expression of that ideal of popular government which has won the allegiance of generous and disinterested minds for a century past; but in the light of democratic government as we know it, we feel that if Lord Bryce had designed to compose a masterpiece of irony he could not have done better. Such certainly was not his purpose. His purpose is just to make clear the sharp contrast between anticipation and realization. Without having lost faith in democracy, he is yet no sentimentalist looking at the world through colored glasses, but an imperturbable, clear-eyed realist who wishes to see everything in a white light and to describe it as it is. This he does without sparing us, or himself, anything; and the upshot of his two volumes is to demonstrate, by a wealth of concrete fact and penetrating comment, just how and why modern democracies, in their "actual working", fall so far short of what was expected of them and of what we wish they might be. In its unimpassioned but relentless exhibit of conditions as they exist, this book is more disillusioning than Lecky's two volumes of sustained denunciation; yet Lord Bryce, while giving us every reason for de-

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spairing, does not himself despair, but contrives, by virtue of some sane, robust, temperamental optimism, to gather encouragement, such as it is, for the future.

The more general reasons for the failure of democracy to measure up to the ideal of its first protagonists are not far to seek.

> As a rule, that which the mass of any people desires is not to govern itself, but to be well governed. (II, p. 501.)

> Popular government has been usually sought and won and valued *not as a good thing in itself, but as a means of getting rid of tangible grievances or securing tangible benefits*, and when those objects have been attained, the interest in it has generally tended to decline. (I, p. 41.)

> It was easy to idealize democracy when the destruction of despotism and privilege was the first and necessary step to a better world. Nowadays any one can smile or sigh over the faith and hope that inspired the successive revolutions that convulsed the European Continent in and after 1789. Any one can point out that men *mistook the pernicious channels in which selfish propensities had been flowing for those propensities themselves, which were sure to find new channels when the old had been destroyed.* (I, p. 49.)

> Any one can see that these things which have not been attained ought not to have been expected. No form of government, nothing less than a change in tendencies of human nature long known and recognized as permanent, could have accomplished what philosophies and religions and the spread of knowledge and progress in all the arts of life had failed to accomplish. (II, p. 534.)

All this is no doubt a counsel of disillusionment. If men never expected more than could be attained, they would probably never attain even the possible. But after the event it is easy to see that too much was expected of democracy. Now that we have popular government, it is easy to see that it is only one method of being indifferently governed, with some advantages and some disadvantages over other methods.

If one doubts this, one has only to read Lord Bryce's account of the acutal working of government in the six countries which he has selected for special treatment. In every country the story is much the same. Everywhere we see the mass of the people indifferent to government except "as a means of getting rid of tangible grievances or securing tangible benefits"; everywhere we see human nature working for good or for ill much as it did under previous forms of government; everywhere we see the "new channels" which selfish propensities have found in place of the old ones which have been

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destroyed. Lord Bryce has an unerring eye for these new channels, and an unrivaled pen for describing their devious ways. One wonders what the optimists of 1792 would have thought could they have foreseen this picture of the modern French Deputy.

> The large majority . . . have begun their political career by acquiring influence among their neighbours. They enter local councils, and thus become known in the canton. . . . They serve as *Maires* in their commune; they are active in local party work, and alert in looking after local interests generally. An ambitious doctor or lawyer may give gratuitous consultations or otherwise ingratiate himself with a local clientèle. To belong to a Masonic lodge, or even to an angling society or a gymnastic club—all these things help. . . . One must not only cultivate an easy and genial manner, but observe, at least in the provinces, a decent regularity of life, avoiding, especially in the northern parts of France (for the South is indulgent), whatever could shock the *âme rigide de la province*. If one has money to spend on local purposes, so much the better. (I, p. 249.)
>
> Once in, the deputy's first care is to stay in. This must be achieved . . . by a sedulous attention to the interests not merely of the district but of the individual residents of the district, especially of those to whom he owes his seat. Every kind of service is expected of him. He must obtain decorations for his leading supporters, and find a start in life for their sons and sons-in-law. Minor posts under government and licences to sell tobacco have to be secured for the rank and file. All sorts of commissions to be performed in Paris are expected from him, down to the choice of a wet nurse or the purchase of an umbrella. . . . He is the fountain of honor, the dispenser of patronage, inspiring a lively sense of favours to come. . . . If he is well off, his subscriptions to local purposes help him; if poor, people feel it would be hard to turn him out and send him to seek a new means of livelihood. Accordingly, provided he keeps on good terms with the local wire-pullers, and is not involved in a scandal which would reach the constituency, he is likely, at least in rural areas, to hold his seat, and may in the fulness of time transfer himself to the calmer waters and longer term of the Senate. (I, pp. 250-251.)

What a picture! And yet how familiar it is! The American Congressman would have the intelligence to recognize its points. The umbrella and the wet nurse are perhaps a little out of his line, but the career in general is one for which he is eminently fitted. For the career of an American Congressman, as Lord Bryce sees it, is

> also a career the entrance to which is in most places neither easy nor agreeable. Services are exacted, pledges are demanded, which a man of high spirit does not like to render or to give. The aspirant to a seat in Congress, unable to make his way alone with a constituency, must get the party nomination, which is generally obtain-

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able only by the favour of a Boss. The path is sentinelled by the party machine, which values party loyalty more than ability, and usually selects in each district the man who either possesses local influence or his place by local party service. (II, p. 65.)

Little wonder, therefore, that Congress "does not receive the attention and enjoy the confidence which ought to belong to a central organ of national life".

It seldom "faces right up" to the great problems, not even always to the lesser problems of legislation. It fumbles with them, does not get to the root of the matter, seems to be moved rather by considerations of temporary expediency and the wish to catch every passing breeze of popular demand than by a settled purpose to meet the larger national needs. In the handling of national finance it is alternately narrow-minded in its parsimony and extravagant in its efforts to propitiate some class or locality. . . . Every year sees the distribution from what is called "the Pork Barrel" of grants of money to particular districts or cities for so-called "local public works"—it may be for making a harbour which is sure to be silted up, or improving the navigation of a stream where there is just enough water to float a canoe. These things bring money to the neighbourhood, and "make work", so a member earns merit with his constituency by procuring for them all he can. It is nobody's business to stop him; and others who wish to earn merit in a like way would resent the discourteous act. . . . Congress does not impress the nation by its intellectual power any more than by its moral dignity. Men who care for the welfare of the country as a whole—perhaps more numerous in the United States than in any other free country—do not look to it for guidance. The House scarcely ever enlightens them by its debates, and the Senate less now than formerly. Its proceedings, largely conducted in the dim recesses of committee rooms, do not greatly interest the educated classes, and still less the multitude. (II, p. 63.)

These are long passages, all bearing on a single point; yet in many ways they serve, as well as any selections could, to represent the book. They reveal admirably, for example, the author's well-known and unexcelled power of penetrating through the external forms of government to the living forces that determine its "actual working". It might be objected that the actual working here laid bare exhibits democracy almost if not quite at its worst. But the elected legislative body is after all the most characteristic feature of democracy as Lord Bryce defines it; and if he finds the elected legislative body everywhere with little prestige or dignity, everywhere devoted to footless activities and platitudinous verbiage, everywhere exhaling a sordid atmosphere, why then the sordid note must be in some measure the typical note.

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I do not mean that Lord Bryce finds nothing good to say about democracy. On the contrary, he finds many good things to say about it; but his enthusiasm is at best pitched low, and the prevailing impression which one gets from this masterly exhibit of modern governments is of something solid and substantial no doubt, yet without grace or beauty, something essentially humdrum and sordid, as men and women are humdrum and sordid. What Lord Bryce does for us essentially, and so effectively that seemingly it need never be done again, is to demonstrate that popular government is no more "ideal" than any other form of government, but just a human affair which responds indifferently to the virtues or the frailties of average human nature. Human nature has not changed under democracy; only the "channels" in which selfish propensities flow have changed. The modern courtier stands not in the antechamber holding the king's shirt, but he is quite ready to bend the compliant hinges of the knee to the dispenser of favors; he makes his obeisance to the great god Demos, and presents him with an umbrella or a wet nurse. Demos is not so particular about his shirts!

Lord Bryce is too wise not to see that this human institution, which came from the desire to get rid of tangible grievances and to attain tangible benefits, may disappear for the same reason.

> Frenchmen, Englishmen, and Americans find it so natural a thing that men should be interested in politics, that they assume men will always be so interested. But is it really true—so students of history will ask—that this interest can be counted on to last? . . . Greek democracy had been destroyed by force . . . and little regret was expressed at its extinction. The last blows struck for republican freedom in Rome were struck not by the people, but by a knot of oligarchs. . . . No one thought of trying to revive free self-government in Italy or Greece or around the coasts of the Aegean, where hundreds of republics had bloomed and died. (II, p. 599.)
>
> We can well imagine other conditions which might have a like effect. The thing did happen: and whatever has happened may happen again. Peoples that had known and prized political freedom resigned it, did not much regret it, and forgot it. . . . Is it possible that a nation, tired of politics and politicians, may be glad to be saved the trouble of voting? (II, p. 601.)
>
> One road only has in the past led into democracy, *viz.* the wish to be rid of tangible evils, but the roads that have led or may lead out of democracy are many. Some few of them may be mentioned. (II, p. 602.)

Lord Bryce discusses with penetrating insight the various possibilities. (1) "If wars continue . . . it is possible that the lust of

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conquest or the need of defence may lead to a concentration of power in the Executive dangerous to the people." (2) "Dangers may also arise from civil strife, when it reaches a point at which one party becomes willing to resign most of the people's rights for the sake of holding down the other faction." (3) "The less educated part of a nation might become indifferent to politics, the most educated class throwing their minds into other things, such as poetry or art, . . . and gradually leaving the conduct of State affairs to an intelligent bureaucracy *capable of giving business men the sort of administration and legislation they desire, and keeping the multitude in good humour by providing comforts and amusements*" (II, pp. 602-603). The upshot of it all is that "few are the free countries in which freedom seems safe for a century or two ahead" (II, p. 603). But "Popular Government will evidently take its colour from and will flourish or decline according to the moral and intellectual progress of mankind as a whole".

The possibilities of such progress are now more open to question than

at any time in the hundred years preceding. That many millions of men should perish in a strife which brought disasters to the victors only less than those it brought to the vanquished is an event without parallel in the annals of the race. . . . The *explanations of the facts are no more cheering than the facts themselves.* Human passions have been little softened by the veneer of civilization that covers them: human intelligence has not increased, and shows no sign of increasing, in proportion to the growing magnitude and complexity of human affairs. Knowledge has been accumulated, the methods and instruments of research have been improved, a wonderful mastery over the forces of nature has been obtained, the world has become a more comfortable place to live in and offers a greater variety of pleasures; but the mental powers of the individual man have remained stationary, no stronger, no wider in their range, than they were thousands of years ago, and the supremely great who are fit to grapple with the vast problems which the growth of population and the advances in science have created come no more frequently and may fail to appear just when they are most needed. (II, pp. 606-607.)

At best not a cheering prospect! Yet, as I said, Lord Bryce does not despair—not wholly. The quality of his optimism may be seen in his closing words.

Some gains there have been, but they have lain more in the way of destroying what was evil than in the creating of what was good; and the belief that the larger the number of those who share in gov-

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erning the more will there be of wisdom, of self control, of a fraternal and peace-loving spirit has been rudely shattered. Yet the rule of the many is safer than the rule of One . . . and the rule of the multitude is gentler than the rule of a class. However grave the indictment that may be brought against democracy, its friends can answer, "What better alternative do you offer?" (II, p. 608.)

The experiment has not failed, for the world is after all a better place than it was under other kinds of government, and the faith that it may be made better still survives. . . . Hope, often disappointed but always renewed, is the anchor by which the ship that carries democracy and its fortunes will have to ride out this latest storm. . . . There is an Eastern story of a king with an uncertain temper who desired his astrologer to discover from the stars when his death would come. The astrologer, having cast the horoscope, replied that he could not find the date, but had ascertained only this that the king's death would follow immediately on his own. So may it be said that Democracy will never perish till Hope has expired. (II, p. 609.)

Friends of democracy will no doubt agree to this last sentiment; but many will perhaps think that Lord Bryce is too much inclined to identify democracy with the particular form in which it appears today. Many people will say that democracy really means something more than "the rule of the whole people expressing their sovereign will by their votes". They will say that democracy, or at least the thing which will disappear only when Hope has been extinguished, is rather an idea than a form of government—the idea or the ideal that men should have equal freedom and opportunity, and an equal voice in determining the social arrangements by which this ideal can be, so far as it can be, attained; and they will therefore conclude that "the rule of the whole people expressing their sovereign will by their votes" is not democracy, but only a method for securing democracy, a method moreover which, as it actually operates in most of the six countries described by Lord Bryce, seems in a fair way of defeating rather than of securing the desired end.

This may seem a quarrel about words; but one often feels that Lord Bryce does not adequately meet the vital question of whether the whole people, where it has a legal right to express its sovereign will by its votes, does or can, under modern conditions, really express its will. To assume that democracy, and not class rule, exists because it exists formally, is much like assuming that Great Britain is not a democracy but a monarchy because it has a king. After all, words are powerful things, with the mass of the people more powerful than ideas; and just now the world is filled with valiant and

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verbal defenders of "democracy" whose chief fear is precisely that the whole people might in fact some day express its sovereign will, either by its votes or otherwise. If the future of our ideals of democracy (very nearly the only ideals the world has left) is to depend upon a form of government about which half of Europe has grown cynical, then must our Hope be faint indeed.

A critic looking for the most vulnerable point of attack would no doubt seize upon Lord Bryce's contention that democracy has nothing to do with economic equality.

> With this controversy [as to whether economic equality is possible] we are not here concerned, for Democracy—which is merely a form of government, not a consideration of the purposes to which government may be turned—has nothing to do with Economic Equality, which might exist under any form of government, and might possibly work more smoothly under some other form. The people in the exercise of their sovereignty might try to establish community of property, as they might try to establish a particular form of religion or the use of a particular language, but their rule would in either case be neither more nor less a Democracy. Political Equality can exist either along with or apart from Equality in property.

This is no doubt formally correct. One willingly admits that "if all property were divided up on one New Year's day, the next would see some men rich and some poor". If Lord Bryce means only that political equality can exist apart from an absolute equality of material possessions, no one, I suppose, would dissent. That one man should be rich and another poor, is inevitable under a competitive régime, and one can easily imagine political equality surviving in a community in which diversity of fortunes was not too great or too permanent. But it makes a great deal of difference whether the rich become rich as a result of superior ability and industry or as a result of special privilege; it makes a great deal of difference whether the rich can or cannot, by means of their wealth, exercise economic power over other men; it makes a great deal of difference whether they can or cannot, by means of this economic power, exercise an undue influence in that political process by which the whole people expresses "its sovereign will by its votes". Political equality can undoubtedly exist along with or apart from economic equality; but if Lord Bryce wishes us to understand that the question of political democracy can be considered to any purpose, much less satisfactorily answered, apart from the question of the economic organization of society, then I confess that his contention sounds like some Rabelai-

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sian pleasantry. On the contrary, I should say that most of our political troubles, both domestic and international, are due precisely to the fact that as a result of the progress of the Industrial Revolution of the nineteenth and twentieth centuries the political organization of the modern world is out of harmony with its economic organization.

In fact, Lord Bryce has admirably described the precise way in which, under modern conditions, the question of political democracy *is* connected with the question of economic quality. Referring to the labor unions, such as the *Confédération Générale du Travail*, the American Federation of Labor, and the Triple Alliance, he says:

> These bodies, democracies within the national democracy, . . . possess a double power, that of their votes as citizens and that of bringing commerce and industry to a standstill by ceasing to work. Such an exercise of the right of each individual to give or withhold his labour creates a difficult situation, for if the Government happens to be the employer there is no independent authority to arbitrate between it and the strikers, and if the employers are private persons the cessation from work may affect so seriously the welfare of the nation that the *matter becomes a political one with which the Administration must deal.* But how? It is a passive insurrection directed against all the rest of the community which cannot meet it by physical force. It is a disintegration of democracy, for matters of the first importance to the whole community are discussed and decided by each of these bodies, or by their League, among themselves, while the rest of the population, which has no share in the decision, is faced by a threat operating in effect as a command. (II, p. 578.)

This describes the situation exactly. It is a "disintegration of democracy", if you like; but if so, it is a disintegration due to economic inequality, and how then shall we say that democracy has nothing to do with economic inequality? I should prefer to say that the situation so aptly described is a symptom, and an ominous one, that the political mechanism intended to secure democracy, intended to enable the whole people to express "its sovereign will by its votes", is proving inadequate to attain that end. Since the laborers have the vote why do they not rely upon the vote to express their will and secure their interests? Not from mere perversity surely, but primarily because of a profound distrust in the ability or the capacity of those legislative bodies, which Lord Bryce finds everywhere of such diminished prestige, and not among laborers only, to deal fairly or even intelligently with the vital questions at issue. Such distrust is certainly very largely justified; and it is so largely because in

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place of nations of individuals, all more or less alike in respect to conditions and ideas, the Industrial Revolution has given us nations differentiated into classes and corporate and occupational groups, more or less different and often sharply antagonistic, in which the lines of division have little or nothing to do with the territorial areas on which political representation is based. The government, nominally composed of persons chosen to represent the will of the people in certain territorial areas, finds that the crucial problems of the time, which are essentially economic, cannot be solved without taking into account the will of the people grouped in certain economic categories. Such is doubtless the real source of the diminished state of Deputies and Congressmen. What they too often legally represent is a group of people without any definite common will to be expressed; what they have to deal with are groups of people (and not labor groups only) who can get their will expressed only, or much better, by using their extra-legal economic power as a means of dictation.

But comment on so acceptable a book must not close on a note of dissent. In any case the dissent is slight, and scarcely touches the substance of the work. The primary purpose of Lord Bryce is neither to define nor to reform nor even to defend democracy. His primary purpose is to exhibit modern popular government just as it is. This he does with such a wealth of concrete information, with so much shrewd insight into human motive, with so much charity for human frailty and yet so resilient a faith in human virtue, with so sustained a desire to know that which is true and to hold fast to that which is good, that these two volumes will be one of the great and indispensable records of early twentieth-century civilization. Lord Bryce does these great things in so casual a way that we are becoming habituated to taking them as matters of course.

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REVIEWS

The Mirrors of Washington. Anonymous. New York, G. P. Putnam's Sons, 1921.—xi, 256 pp.

On the outer cover of this book the publishers print this sentence: "The authorship is anonymous. The observer — or is he participant?—of Washington politics prefers to cloak his identity."

The parenthetical question in the above quotation may confidently be answered in the negative. A participant might praise his colleagues or he might denounce them, but I know of no instance where one politician has discussed the strength and weaknesses of his associates with the dispassion that is here displayed — a dispassion that may be compared to the spirit in which a committee of college professors form their judgment of a student who is a candidate for a scholarship or prize. From internal evidence I am more than half convinced that the author is none other than Mr. Walter Lippmann, until recently a member of the board of editors of the *New Republic.* At any rate the author is quite patently "a New Republic sort of liberal".

The book consists of fourteen characterizations of prominent statesmen who are, or recently have been, guiding the nation's destinies in domestic and foreign politics. Each sketch is accompanied by a halftone from the photograph of the subject and a cartoon by Cesare. It is fitting that there should be a cartoon for every photograph, as each essay is half satirical and half serious. But only in two instances does the author permit his satire to become ill-natured—that is, in his discussions of Senators Lodge and Johnson. Of the former he says: "His [Lodge's] is the parasitic mind that sucks sustenance from the brains of others and gives nothing in return" (p. 141). In making this and similar unkind remarks about Mr. Lodge, the author feels that he has done the Massachusetts senator "full and signal justice" (p. 142). While professing no great admiration for Mr. Lodge, I feel certain that this estimate will not be the verdict of history.

We are told that Hiram Johnson "has no real convictions. He does not reason or think deeply. His mentality is slight. He is the voice of many; instinctively he gives tongue to what the many feel; that is all" (p. 188). Not only is this statement a mere half-truth

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but the author's whole treatment of Johnson is generally vindictive. Does not Mr. Lippmann (or whoever the author is) remember that Hiram Johnson stood almost alone in the United States Senate in his manly protest against the fiasco of this government's semi-intervention in Russia? The truth is that this author who assumes the rôle of a psychoanalyst, seems to have a queer "complex" of his own with respect to Lodge and Johnson.

However, his discussions of the other twelve statesmen are detached and sane. His judgments are certainly not very far wide of the mark. Although he sometimes overstrains himself in his effort to be clever, his characterizations are generally accurate and frequently brilliant. Take as an example the two following gems on the subject of Warren Gamaliel Harding:

> The President has the average man's virtues of common sense and conscientiousness with rather more than the average man's political skill and the average man's industry or lack of industry. His mentality is not lacking; it is undisciplined, especially in its higher ranges, by hard effort. There is a certain softness about him mentally. It is not an accident that his favorite companions are the least intellectual members of that house of average intelligence, the Senate. They remind him of the mental surroundings of Marion (p. 13).

And again:

> The President's attitude is rather like that of the average man during the campaign. If you said to a voter on a Pullman, "Mr. Harding is a man of small public experience, not known by any large political accomplishment," he would always answer optimistically, "Well, they will see to it that he makes good." Asked who "they" were, he was always vague and elusive, gods on the mountain perhaps. There is an American religion, the average man's faith: it is "them." "They" are the fountain of authority (p. 17).

No better study of the tragedy of Woodrow Wilson and the Peace Conference exists than is encompassed in twenty pages of this book. The following paragraph is typical:

> History arranged the greatest stage of all time, and on it placed a lot of little figures, "pigmy minds"—all save one, and he the nearest great, an unworldly person summoned from a cloister, with the vision of genius and the practical incapacity of one who has run away from life, hating men but loving all mankind, eloquent but inarticulate in a large way, incapable of true self-expression in his chosen field of political action, so self-centered that he forgot the world's tragedy and merged it into his own, making great things little and little things

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great, one of "life's ironies," the everlasting refutation of the optimistic notion that when there is a crisis fate produces a man big enough to meet it (p. 26).

It is safe to predict that the history textbooks of two hundred years hence in their brief summaries estimating the character and work of these two presidents will be influenced by what this author has said of them. And greater praise than this can be given to no man who essays to pass final judgment on his contemporaries.

B. B. KENDRICK.

The Memoirs of Count Witte. Translated from the original Russian manuscript and edited by ABRAHAM YARMOLINSKY. Garden City, N. Y., Doubleday, Page and Company, 1921.—xiii, 445 pp.

Count Witte's *Memoirs* come to remind a world very much concerned with the Soviet régime that Russia's problems and difficulties antedate the revolution of 1917. Indeed the extraordinary events of recent years cannot be explained without reference to Witte's economic policy, which, by its rapid introduction of the modern industrial system, paved the way for the Social Democrats and the Bolshevist wing. His book is, therefore, of great interest, not so much perhaps for the new information which it contains as for the revelation of his own mentality and the methods of the Russian bureaucracy. Quite unconsciously, for he completed his narrative in 1912 and died in 1915, Witte has provided the *pièce justificative* for the sentence ultimately pronounced upon the Romanoffs, for he has shown, to the satisfaction of the veriest radical, how hopeless it was to expect any genuine or sincere reforms from Nicholas II.

It may be doubted whether Witte has enhanced his reputation by his book, although he wrote it abroad beyond the reach of the Russian police. Of his own career and achievements he is justly proud. He was not a bureaucrat who made his way through the usual channels, but a successful railway official who attracted the attention of Alexander III (who is his hero) and was made first minister of ways of communication, later minister of finances. In the latter capacity he was from 1892 to 1903 the outstanding statesman in Russia, extending his activity far beyond the usual limits of the office, yet managing to retain it in spite of the endless intrigues of his associates, the "profound distaste" of the Emperor, and the "particular enmity" of the Empress. He liquidated the Japanese

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war, was made a Count, inaugurated the constitutional system, and became the first prime minister. Assuredly no mean record, the product of untiring energy and sheer will-power. Yet he does not arouse our sympathy. His consciousness of infallibility, the reiterated contempt for associates whom he describes as "bureaucratic nonentities" and "self-seeking office-hunters", the parading of his own disinterested service, the professions of loyalty and devotion to an Emperor who disliked him and whom he could not respect, may be only the natural resentment of a disappointed ambition, but they suggest that if he could have shown toward his colleagues some of the generous recognition accorded to himself in Isvolsky's *Memoirs*, his political course might have been smoother sailing. As a matter of fact, he was as keen for power as those whom he castigates. Again and again he records his disapproval of the Emperor's policy or conduct, but he made no serious effort to resign; he does seek to imply that his two retirements were voluntary, but when it suits his argument, he speaks of his "dismissal" from the ministry of finances and of being "forced out" of the premiership. In other words, politics was a game which Witte played like other ministers, and in the end he went over frankly to the reactionaries in the hope of regaining the Emperor's favor.

Though he calls himself "a man of culture" who stood above parties, he was singularly lacking in broad views and general ideas. Railways, finance, industrial problems, he understood and handled successfully; that he ever worked out a theory of politics does not appear from his book. He did perceive the folly and the futility of Russification, he claims to have been opposed to the laws against the Jews, but it seemingly never occurred to him that the Russian political machine needed a complete overhauling. So when the crisis of 1905 came, although he advised the concessions embodied in the October Manifesto, he would have preferred a military dictatorship, and in the Fundamental Laws he endeavored to preserve the essential powers of the autocracy. His tirade against the tyranny and terrorism of Stolypin's rule is hardly convincing if one has read the eulogy of that statesman written by the liberal-minded Isvolsky or remembers the excesses attributed to Durnovo, the minister of the interior in Witte's cabinet.

Witte's political sagacity can be measured by his foreign policy. He is at some pains to show that he was opposed to an aggressive action in the Far East, arguing that the Manchurian railway concession which he obtained from Li Hung Chang would have secured

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for Russia a dominating influence in Chinese affairs: he failed to see that even this mild measure of imperialism would have alarmed the Japanese, whom he refused to take seriously until they had broken the Russian military power. In European politics, he always advocated a Russo-Franco-German combination, which, whatever its merits, was never within the bounds of the practical; on the other hand, he resented the Anglo-Russian agreement because it rendered impossible "the natural absorption of North Persia in the Russian Empire". He claims to have brought the Algeciras Conference to a satisfactory conclusion. The French Government would not sanction a Russian loan until the Moroccan controversy was settled, and Witte represented to Germany that "only the carrying out of those [financial] operations will enable the Imperial Russian Government to take the necessary measures for the final suppression of the revolutionary movement, which has already shown signs of spreading to the neighboring monarchistic countries"; shortly afterwards the German Government yielded, although it continued to try to block the loan.

There is no space to enumerate the various criticisms of Nicholas II; but when all allowance is made for Witte's personal feelings, his judgment will not be questioned that a ruler who was at once "incapable of playing fair" and "the plaything of all manner of evil influences", was "not born for the momentous historical rôle which fate has thrust upon him". His irresolution, his arbitrary methods, his suspiciousness, would have prevented any minister, however devoted, from saving the throne and the ship of state. In any case, Witte was not such a minister. He was a big man, and a better man than most of his contemporaries, but he was not a genius, only an opportunist of great ability.

BERNADOTTE E. SCHMITT.

WESTERN RESERVE UNIVERSITY.

Cardinal Mercier's Own Story. By HIS EMINENCE, D. J. CARDINAL MERCIER. New York, George H. Doran Company, 1920.—xviii, 441 pp.

It is not often that a *dossier* takes on the sustained interest, or the rounded dignity, of a book; yet that is what has happened to *Cardinal Mercier's Own Story* in the translated form in which its American publishers have given it to us. From first to last one feels that it is a great personality who is speaking to us in and through the official characters that come and go throughout the long corres-

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pondence. The separate papers profess, indeed, to be colorless and impersonal documents; but the religious and moral problems involved break through the polite veneer of phrasing, and one finds oneself listening to a chapter of world-history as big with significance as it is crowded with crime. To read it all gives one the impression of having been admitted to a Homeric Council of the Immortals arranging the issues of the great war; or, more appropriately still, one almost feels as though the Archbishop's house in Malines had been ceremoniously set for one of those *Great Acts* in Philosophy, or Theology, with which Louvain students are familiar. We listen breathlessly over a space of years while the protagonists of two opposed theories of political justice argue and counter-argue in punctilious and subsumed debate. It is no make-believe, but as actual as the multitudinous tragedy itself; and it is always my Lord Cardinal that scores. There are few things like it in modern history.

When, on the seventeenth of October, 1918, Baron von der Lancken presented himself at the Archbishop's House in the name of the Governor-General to announce the approaching release of all Belgian prisoners held by the Germans, he left a note in His Eminence's hands which began with this unconsciously ironic, if pompous, avowal: "You are, in our estimation, the incarnation of occupied Belgium." So much has been written during the last seven years on the naïve conceit and general topsyturvydom of Prussian mentality that we need not stop to comment on the gracelessly graceful admission. One can almost see the slightly uncouth, but histrionic, gesture that must have accompanied the delivery of the note. Yet for once official a-priorism had blundered up against reality. Cardinal Mercier was a man. At every stage of the titanic struggle he had unwittingly revealed himself as a great national figure. And so Germany came at last to recognize what the world in arms against her had seen from the beginning. The Cardinal was the intelligent and fearless embodiment of the civil population of his outraged country in precisely the same way as the King at the front had summed up the courage and resolution of its fighting sons. It is not often that the historian has to record such a juncture of vocations.

The student of political questions will find much in the book to justify that vague movement toward the establishment of international and explicit ideals of justice, embodied in definite codes, of which our own generation has seen the uncertain beginnings. It is in the Cardinal's *Pastorals* and other addresses to his people that

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the material most germane to this problem will be found. The *Story* makes it plain, too, that the great Primate was not content to be a mere preacher of the virtue of patriotism. He took great risks and staked, not merely his liberty, but his life as well, in his tireless activities during the four dark years of German occupation. If it is a great thing for a beleaguered nation not to lose its *morale* during the stress of an overwhelming invasion, Belgium owes it to the activities of this great priest and spiritual leader more than to any other effort of its sons that it has a rightful place in the councils of the nations today. What those activities meant may be gauged by the Cardinal's letter to von Bissing on the rights of the occupying power, by his indignant protest against the deportation of the unemployed, by his intelligent yet courageous struggle against the sinister scheme to create a divided Belgium in the apparently innocuous field of education. The American reader needs especially to be reminded that the Germans themselves were not the only enemies that the Cardinal had to deal with. Belgium is not, and never has been, a racial unit; yet its behavior during the war and since seems to have welded it into a unity comparable only to that of our own American Union since the settlement achieved by the Civil War.

We have called this collection of official documents not a printed *dossier,* but a complete and rounded book. Surely, we may add now that the work scarcely needs recasting into more explicit form to make it a great book, great and human, because of the great personality that speaks to us out of every page.

FR. C. C. CLIFFORD.

COLUMBIA UNIVERSITY.

Lord Grey of the Reform Bill: Being the Life of Charles, Second Earl Grey. By GEORGE MACAULAY TREVELYAN. New York, Longmans, Green and Company.—xiv, 413 pp.

For no great event in English history has the historian had a greater wealth of published material than has been available concerning the passing of the Reform Act of 1832. And yet, even when Butler wrote his book, there was still lacking what might reasonably be called the keystone of the structure, and only now, with the appearance of Mr. Trevelyan's life of Lord Grey, is it possible to form a correct opinion in regard to personal responsibility for the bill which revolutionized the British Constitution. In many respects, it is true, the new light shed by hitherto unpublished letters and by information derived from Lord Grey's private papers serves only to

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confirm what had already been gained from other sources. But the fact that, until the present volume was published, there had been no authentic life of Lord Grey—no life written by one who had access to the papers and correspondence, both private and official, of the great statesman—undoubtedly tended to a belittling of the part taken by the premier in the intricate negotiations surrounding the passage of the bill, and also of his share in the molding of the measure.

The long delay in the appearance of Lord Grey's biography has been disadvantageous for the writers of British political history of the first half of the nineteenth century. Parts of this history will need rewriting as a consequence of its publication. But from the point of view of the biography itself, there is reason for congratulation that sufficient time had been allowed to lapse to enable the biographer to attain a viewpoint from which his subject could be seen in excellent perspective. England is the home of political biography. Every premier, every statesman of first rank and even of second or third rank whose public life was passed in the nineteenth century has been the subject of an autobiography or a biography, or has been the author of published diaries or journals. But it would be hard to find a single one among these many books which, in just proportion, in excellence of narration and in elimination of unnecessary detail, can equal the volume on Lord Grey by George Macaulay Trevelyan. Mr. Trevelyan has a hereditary right to his ability in treating of British statesmen, and he has already shown a remarkable comprehension of British Liberalism in his Life of John Bright. But equally good equipment and ability did not suffice to keep Lord Morley in lesser bonds than three long volumes when he wrote the life of Gladstone, and even the lapse of half a century was not sufficient to bring Disraeli into clear perspective and to induce his successive biographers, Monypenny and Buckle, to prune the exuberance of detail which extended the life of Queen Victoria's favorite premier to the inordinate length of six volumes.

A biographer, to whom the letters and papers of his subject are entrusted by the family and trustees of the estate, is perhaps not to be expected to treat his hero with the stern and implacable justice of an ancient Hebrew chronicler. But with full allowance for all efforts to show the best side of Lord Grey to posterity and the public, it must be admitted that the effect of the Trevelyan biography will be greatly to enhance the esteem in which Lord Grey has been held, and to remove the impression that he was a secondary figure in the movement for reform. The fact that he was an aristocrat in the full-

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est sense of the word, has tended to obscure the further fact that he was more democratic in his sympathies than most of his colleagues. Of his integrity and fineness of character there has never been any doubt, and the glimpses of home life and of his friendships show him to have been as lovable as he was estimable. Altogether the picture given by Mr. Trevelyan is that of the English gentleman in politics as the lovers of the old régime liked to conceive of him. It is one of life's ironies that this man, one of the finest products of the system under which he came into prominence, should have been the man to inaugurate a new era in which the middle classes gradually became the moving power in the Government, and in which his own order was gradually to lose its power and prestige.

ANNIE G. PORRITT.

HARTFORD, CONN.

Henry Fox, First Lord Holland, His Family and Relations. By the EARL OF ILCHESTER. New York, Charles Scribner's Sons, 1920.—Two volumes: xvi, 366; xii, 391 pp.

Patron and Place Hunter: A Study of George Bubb Dodington, Lord Melcombe. By LLOYD SANDERS. London and New York, John Lane, 1919.—xvi, 294 pp.

Eighteenth-century England is distinctly the era of notorious, famous-infamous politicians, and no two of them have been more reviled than Dodington and Henry Fox; for even Browning deigned to hold up the former to scorn in some three hundred lines, some of them fully as dull as Dodington's own verses. Both men were typical products of the political system of their time; both made politics a business, in which each was relatively successful; both were without scruples about holding sinecures; and each, curiously enough, held as a sinecure the clerkship of the pells in Ireland; both made money out of the entrancing game of politics; both at last secured the peerages for which they sought, and from the hand of Lord Bute. Both were men of real ability, but neither lived up to his possibilities — Fox, because of his unbounded love of ease and money; Dodington, because he lacked political and moral principles.

Important as were these two politicians in their day, they remained without adequate biographies until the present decade. In 1910 Professor Riker published his life of Holland, and even that was less a biography than a study of English political and foreign complications from 1750 to 1763. Lord Ilchester, a descendant of Hol-

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land's brother, bases his book on family correspondence, to which Riker was denied access. Sanders's book is the first attempt to rejuvenate the memory of Dodington. Thus both works are welcome additions to eighteenth-century political history, where such interesting and important figures as Stanhope, Pulteney, and Dundas still lack capable biographers.

Unlike Fox, who had a genius only for political manipulations, Dodington was versatile and may well claim some distinction as a poet, scholar, diplomat and politician. He was a poet of sorts, but still more a patron of poets like Thompson and Young. Dodington was but twenty-four when he became minister plenipotentiary to Spain, and was reasonably successful in the nerve-racking task of negotiating with Philip V and his termagant spouse to remove the ambiguities of the treaty of Utrecht. It cost England, however, 14,000 pistoles to secure Dodington's treaty, and it is still a mystery as to who got the money. Controlling some six votes in the Commons, Dodington was much sought after by political leaders. He was a lord of the treasury for sixteen years, and a treasurer of the navy for five. He then went over to the graceless Prince of Wales, but his career seemed ended at the sudden death of the Prince two years later. He played the sycophant to Bute, however, and received his baronage just as death seized him. Horace Walpole's "puffy peer" was indeed a sordid character in private as well as political life.

Henry Fox first became a supporter of Walpole, and after his death, of Pelham. Never able to work with Newcastle, he attached himself to Cumberland. He was at various times a lord of the treasury, secretary-at-war, paymaster-general, secretary of state. For a time he was, like Dodington, a cabinet member, and for a season a leader of the Commons, but soon relapsed into political obscurity with the lucrative paymastership. In 1762 he too became Bute's satellite and forced the treaty of Paris through the lower house in return for a peerage. As a leader of the Commons he showed real genius, but he never could form a ministry of his own. He was the most unpopular man of his day, and was looked upon as purely self-seeking, for his paymastership brought him an enormous income. He made an insensate attack upon Hardwicke, who was thereby antagonized. Furthermore he failed to cooperate with Pitt, fundamentally because he trusted neither Pitt nor the masses. Lastly, he bound himself too closely to the king's favorite son.

Ilchester suggests that Cumberland was much abler than is usually believed. He also proves that George II had given his son permis-

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sion to save his army, which he did at the Convention of Klosterseven. By repudiating this agreement, the king made a scapegoat of his son in order to extricate Newcastle and himself from an impossible position, for he knew Cumberland would never refute his charges. Moreover, Ilchester shows that after Bute's dismissal it was Cumberland and not Bute who worked behind the scenes. Furthermore, the author thinks that Fox's extravagances and love of gambling have been much exaggerated.

Both the works under review show careful use of manuscript sources. Both, but Ilchester in particular, have constructed interesting pictures of the public and private lives of two eighteenth-century professional politicians. Both are modest in presenting new materials, and particularly in dissenting from views commonly accepted. Sanders probably indulges in poetic license when he speaks (p. 37) of Dubois as the "ape" of the Duke of Orleans, and Ilchester is far from generous in his treatment of Riker's scholarly work, referring to it less than half a dozen times, and then usually in a censorious way. Indeed, both writers seem oblivious to some excellent articles by American scholars upon the cabinet. Sanders's index is too brief to be of much value. These are, however, but slight defects in two praiseworthy efforts to explain a political system based upon "represented ruins and unrepresented cities".

WILLIAM THOMAS MORGAN.

INDIANA UNIVERSITY.

Japan and the California Problem. By T. IYENAGA and KENOSKE SATO. New York, G. P. Putnam's Sons, 1921.—vi, 249 pp.

The presence of seventy thousand Japanese in a white population of nearly three and a half millions would at first sight seem to be too small a matter to justify the flood of books and articles which it has provoked. The very fact that the problem has come to occupy so large a place in the attention of two nations, however, is reason enough for the existence of any study which seeks a just and peaceable settlement. The volume by Professor Iyenaga and Mr. Sato is distinctly an attempt to find such a solution. It is not a piece of biased propaganda but an honest effort to present the facts and to suggest a way out. The work of Japanese who know both the United States and Japan, it gives in brief, popular form the results of a careful, scholarly study of the main issues involved. It is by all odds the best book dealing with the subject which has appeared during the

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last four or five years and is to be compared only with the excellent article by Professor Treat in the April *Atlantic*.

After an introductory statement the authors first seek to give the general background of the problem in chapters on Japanese traits, Japan's Asiatic policy, the causes of emigration, and the attempts at emigration into various quarters of the globe. The causes are, of course, found in the rapid growth of population on islands of limited area and of still more limited arable land, a situation which has made necessary either emigration or industrial development. The progress of the latter is sketched and the obstacles which make difficult the caring through it for the surplus growth are pointed out. The still greater barriers against emigration to the various places of the world are also described, together with the status of the Japanese in these regions. The causes of anti-Japanese agitation in California are then analyzed in a very admirable and dispassionate summary, and the facts about the numbers and the birth rate of Japanese in California and the alien land laws are given. The temper of all these chapters is excellent and, with one exception, they are so dispassionate that the reader might easily forget the nationality of the authors. The volume contains appendices which give copies of laws, treaties, and various important and useful tables of statistics. It concludes with an excellent bibliography and is well indexed.

The chapters which are least strong are the one on Japan's Asiatic policy and the general conclusion. In the former, Japanese activities on the continent have been painted in rather too favorable a light and at times with decided inaccuracy. It is not in accord with the facts of Japan's dealings with China from 1914 to 1918 and with Korea to say that "it may confidently be asserted that the road she [Japan] has trodden [in her Asiatic policy] has, on the whole, been straight. She can face with a clean conscience the verdict of history" (p. 37). It is debatable, to say the least, whether the demands of 1915 were "justifiable in the main proposals presented" (p. 35). There was no pledge in the treaty of Versailles to relinquish the leasehold on Kiaochow, as the statement on page 40 implies, and the assurances which were given at the time of the Shantung settlement seem to have been oral and vague. Even in this chapter, however, there is frank criticism of many of Japan's actions and the authors are by no means entirely blind to her faults. In the concluding chapter a solution of the California problem is suggested which does not seem particularly promising. The authors are, to be sure, opposed to further Japanese immigration to California. They are

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right, of course, in saying that the settlement of the problem "should be in consonance with justice and international courtesy", "fair to Californians", and "fair to the Japanese residents, both aliens and American-born" (p. 186). They are also correct in urging that the Japanese in California must show willingness to become Americans, that the Japanese government must alter its policy of paternalism which extends too much care to Japanese domiciled and even born abroad, and that the United States must Americanize the Japanese. It is doubtful whether the authors are right in minimizing so greatly the part which a just treaty may have in effecting a settlement. It is still more doubtful whether it would be practicable to carry out their suggestion (pp. 188, 189) that a committee of Japanese and Americans be formed to relieve the congestion of Japanese in California by distributing them through the other states of the Union, and that the committee be financed by the Japanese living in this country. However, strictures on a book which is on the whole so excellent, seem ungrateful. One's confidence in the possibility of a peaceable and just solution of the moot questions of Japanese-American relations is confirmed by the appearance of as fair-minded and conciliatory a volume from the pens of Japanese as that which the authors have given us. The book deserves a very wide reading.

KENNETH SCOTT LATOURETTE.

DENISON UNIVERSITY, GRANVILLE, OHIO.

Denmark, a Cooperative Commonwealth. By FREDERIC C. HOWE. New York, Harcourt, Brace and Company, 1921. — ix, 203 pp.

In earlier writings Mr. Howe has registered strong disapproval of the policies and methods of most contemporary governments. Indeed, in the volume now under review he brackets the United States with England, France and Germany and asserts that in all of these lands the political state is in a bad way. "It commands", he says, "little confidence. It does not function well. It is an imperialistic thing. It is an agency of classes and groups. It does not represent or aim to represent the great mass of the people. And it does very little to serve them."

But in the little kingdom of Denmark he has at last found a condition of things meriting high praise. Here, we are told, is "one of the few countries in the world that is using its political agencies in an intelligent, conscious way for the promotion of the economic

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well-being, the comfort, the cultural life of the people". Here is "a demonstration of the possibilities of democracy, industrial as well as political", which is "quite the most valuable political exhibit in the modern world"—an exhibit which ought to be visited by investigators, studied by statesmen, and imitated by lawmakers and reformers. And in upwards of a score of brief chapters Mr. Howe describes the features of Danish organization and life that have thus roused his admiration.

Some of these features, e. g., the thrift of the people, spring from racial traits or natural endowments. Others are the fruit of economic experiment and progress, as for example the growth of the cooperative movement. Still others flow from political liberalization: the abolition of privilege, the upbuilding of social insurance systems, legislation tending to break up the land into small holdings, the establishment of free trade, the taxation of wealth and opportunity rather than thrift and consumption. Discussion of most of the topics taken up is, however, so brief as to admit of only a few categorical statements, with perhaps a word of comparison. Social legislation is disposed of in a dozen small pages, taxation in a quarter less space than that; which means that the book is, at best, only a sketch.

It is not necessary to quarrel with the author over the socialistic slant of his thought in order to call attention to another serious defect of his handling of his subject. Denmark is an uncommonly well-governed and prosperous country. But its virtues and successes are not so transcendent as Mr. Howe would have us believe. One would have to read closely indeed to discover from his pages wherein the northern kingdom is still short of the millennium. Conversely, the achievements of other lands are too much discounted. The assertion that the state does very little to serve the masses in England, France and the United States is palpably untrue. Granted that it does not do enough, by any sort of standard it does much more than "very little".

Extravagance of statement, on these lines, repeatedly mars the book, and the reader comes off with the feeling that an excellent opportunity to make a discriminating and substantial contribution to our knowledge of comparative political and economic experience has been taken advantage of but poorly.

FREDERIC A OGG.

UNIVERSITY OF WISCONSIN

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Democracy and the Human Equation. By ALLEYNE IRELAND. New York, E. P. Dutton and Company, 1921.—xi, 251 pp.

Mr. Ireland is in despair over the state of things political in the world in general and the United States in particular. "There is scarcely a government in the world today which is not threatened with radical change of form or of method, if not with actual destruction, at the hands of an exasperated populace" (p. 12). Either by accident or lest one should doubt or forget this, the entire rhetorical paragraph which it concludes is repeated ten pages later — repeated verbatim, except that the populace has now become "exacerbated" (p. 22). "The only people in the United States today who are satisfied with the condition of government are those who . . . derive their ability to gratify their acquisitive instincts at the expense of a supine public" (pp. 16, 17).

Wherein lies the trouble?

Well, for one thing, our government is not representative, which is admirable; it is delegative, which is reprehensible. The distinction is that the elected representative exercises complete independence of judgment, while the elected delegate merely records the judgment of his constituents. The idea seems to be that the candidate should state his opinions to his constituents. If they approve, they elect him. Once elected he is his own master. If his constituents disapprove his acts or his utterances in office, they must not seek to control his discretion. Theirs is but to turn him out. That is the true representative system. Seventy years ago John Stuart Mill discussed the same subject. But is not such a discussion more or less futile? Every democratic assembly is, and probably always will be, partly representative and partly delegative. Its representative character increases as the diversifications and complications of government make it more and more difficult for constituencies to develop local public opinions upon a wide variety of difficult public questions. Adversely but synchronously its delegative character increases as education spreads and as the media for the organization and expression of public opinion multiply and improve. Human nature being what it is, no amount of disquisition concerning what ought to be the relation between the legislator and his constituents will serve to alter that relation in the slightest degree.

For another, and apparently contradictory, thing, we have far less "political liberty" than have, for example, the people of Great Britain. "The only practical test of the amount of political liberty

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yielded by any form of government is to determine the extent and character of the control exercised over legislation and over high administrative officials by the voting population" (p. 59). Measured by this test the United States falls far short. The control of the voting population does not reach the Supreme Court. It does not reach even the President and his Cabinet. It would seem, therefore, although naturally the author does not so deduce, that these officers are *too* representative—that is, too independent. However that may be, the situation is entirely otherwise in England. No court can veto an act of Parliament. True and important. Neither can the Prime Minister. True but unimportant, he being merely the chief factor in the making of the law. Mr. Ireland, apparently seeing only the formalism of legal relations, seems to think that the House of Lords is now less than a fifth wheel in law-making; which it is very far from being, in spite of the Act of 1911. He appears also to think that the House of Commons actually makes the laws instead of, as in fact, exercising something in the nature of a reluctant emergency veto power over the law-making of the ministry. On these two points he might do well to ponder the recently expressed view of an astute English observer, Mr. A. G. Gardiner:

> For long years Liberals have been fighting for a thoroughly representative system and for imposing restraint upon the reactionary tendencies of the Upper House. And having accomplished their aim, they find that they have to turn, for the experience of whatever remnant of enlightened and liberal-minded opinion there remains, from the House of Commons to the House of Lords. There at least an occasional weighty voice is heard in protest against the follies of the government. There at least is some reminiscence of the spirit of independent criticism, which has certainly vanished from a House of Commons that exists simply to register the decrees of a ministry.

Mr. Ireland does not tell us whether he agrees with President Nicholas Murray Butler or with Mr. Herbert Croly as to the value of the executive and judicial vetoes in our system. He seems to like both estimates fairly well, although they are antipodal. But he is certain that these features of our system rob us of "political liberty" as compared with England.

As for popular control over the executive, "the Englishman holds over every man who fills a political office in the national government" an effective control "which rests upon the ability to fix responsibility squarely upon a particular individual, and upon the power to make that individual himself pay the price of his short-

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comings" (p. 75). An unpopular Burleson or Palmer could not possibly survive under a Lloyd George. If this be true, the Webbs, Sidney and Beatrice, must be more perverse than socialistic in arguing strongly for the establishment of the individual responsibility of ministers. According to Mr. Sidney Low, who, in spite of the conspicuous instance of Mr. Lloyd George, would probably only slightly modify the expression of his views today, popularity with the voters ranks among the lowest qualifications for membership in the British Cabinet.

Mr. Ireland's is one of those books in which value and interest derive from the author's evident earnestness and sincerity on the one hand and from a provocative quality on the other. It is excellent reading for those who do not rely upon it for information and accurate perspective. There are two sizeable chapters on heredity which are poorly incorporated into its general scheme. Perhaps they account for the "human equation" part of the title.

HOWARD LEE MCBAIN.

Our Social Heritage. By GRAHAM WALLAS. New Haven, Yale University Press, 1921.—307 pp.

The substance of this book is a series of lectures given at Yale University in 1919. Despite the promise of the title and the serious introductory chapter, the book is in fact a group of somewhat unrelated commentaries upon British politics and life written from the point of view of a British liberal scholar who has a considerable knowledge of "modern psychology" and some first-hand political experience. A number of the chapters deal with examples of British institutional life such as the professions of law, medicine, education, the army, constitutional monarchy and the Church, while the remaining chapters deal with such political concepts as liberty, right, honor, independence, group cooperation, guild socialism, the nation and world cooperation.

Our social heritage is "that part of our 'nurture' which we acquire by the social process of teaching and learning". This heritage is in fact so important that we should find existence impossible if even for a short time we were deprived of it. The improvement of life, or as Mr. Wallas frequently puts it, the way to the "good life", consists in the exercise of our wills in examining our life and institutions in the light of the psychological facts underlying them. To make such an examination seems to be the purpose of the book.

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"Group cooperation", made up of "socially inherited expedients" combined with "biologically inherited instincts", is at best merely cooperation by "a clamorous alternation of the impulse to lead with the impulse to follow", while national cooperation, a recently developed form of group activity, is insecurely built into the social heritage. In fact, we "normally leave the formation of the mental 'panoramas' which represent our nation to the scheming of professional manipulators of motive". The challenge of the Guild Socialist's proposal to substitute a vocational state for the modern democratic state Mr. Wallas meets by placing on exhibition the achievements of the British democratic state during and after the war—its mobilization and demobilization of vocations—in comparison with the limited achievements of the mediæval guild. Moreover in modern professionalism we have the best examples of vocationalism in the modern state. The law as an organized profession is closely restricted, socially wasteful in its "make work" tendencies, undemocratic in its organization, intolerant of change, and indifferent to the fruits of research in kindred fields. The medical profession reveals in a somewhat modified respect the same defects, while the military profession is, chiefly because of its habits of mind, a positive danger to civil government.

The chapter on liberty is, in effect, a description of the evolution (or decline) of English political thought and life from the Liberalism of Mill to the social reforms of Asquith and Lloyd George. Liberty, according to Mr. Wallas, is not a "dictionary word"; it is "a condition in which human impulses are not obstructed". Properly to understand it is to know the nature of the obstructing cause or agent. "Natural rights are real things" and "it is not always good for us to receive them in full". Probably for this reason Mr. Wallas wisely does not tell us what they are. Honor is understood from a contemplation of dishonor, which is a wrong that other people know about. If we will make honor as well as liberty and right "more useful and less dangerous, we must consciously learn so to stimulate, satisfy, sublimate or inhibit the relevant instinct as to lead, here and now, a good life". Independence is best understood when we consider it in connection with that which enjoys it — the Judiciary, for example, or the Offices of Information and Propaganda. It consists of that immunity which will enable an official to exercise the functions of his office uninfluenced by the motives which the grantor of the office shall deem undesirable. In the chapter on constitutional monarchy Mr. Wallas examines with a fine insight the

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psychological facts underlying the traditional justification of the British monarchy, and he effectively raises the question whether the monarchy is "providing a less penetrating working conception of the political relation it symbolizes". The most unusual passage in the book is an admirably acute presentation of the psychological facts underlying the methods through which decisions are reached in a modern state as illustrated by the Reports of the Dardanelles and Mesopotamia Commissions of 1917. Mr. Wallas's exposition of the influence of purely personal elements in bringing about great public decisions is an informing commentary on the ways of statecraft.

Twelve years ago Mr. Wallas in his *Human Nature in Politics* made a very effective appeal to the political scientist to re-examine his material in the light of the newer contributions of psychology. Five years later his *Great Society* sought to analyze "the general social organization of the modern state". Neither of these books carried the argument far beyond an appeal. They contended, as a reviewer of the first book stated, "that the fog is there and exploration is inevitable". Those who look to this latest book for a chart and compass will be disappointed. Mr. Wallas has not attempted the exploration himself; nor has he created the technique of which his earlier books were the promise.

RAYMOND MOLEY.

THE CLEVELAND FOUNDATION.

An Essay on Medieval Economic Teaching. By GEORGE O'BRIEN. London and New York, Longmans, Green and Company, 1921.—viii, 242 pp.

The Middle Age is having its innings. Time was, and that not so long ago, when the word "medieval" stood for ignorance, superstition, poverty, or bigotry. But sweeping derogation of things medieval has been abandoned by the historian and gradually a more just point of view is finding acceptance with the man on the street. The scholarly attitude today is one of hesitation, of suspended judgment, rather than rule-of-thumb generalization. To no small degree have contributed to this changing viewpoint writers who have raised their voices in protest against the complacent or hostile attitude assumed toward the Middle Ages. Such an one was Janssen, who wrote his *Geschichte des deutschen Volkes* in refutation of current Protestant conceptions regarding Germany during the later Middle Ages and the Reformation period. And that is but a notable example of a considerable literature of protest.

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On the fringes of this type of historical writing stands the book under review. Its author, Mr. O'Brien, has already become known to the reading public through his books dealing with the economic history of Ireland. In this present volume he departs somewhat from his wonted field of study to combat what he considers a tendency of present-day socialism to identify its economic ideals with those "of the Catholic Church as exhibited in the writings of the mediæval scholastics" (p. 230), and "to induce a harassed and bewildered world to revert to an older and nobler social ethic" (p. 228).

The author at the outset lays down as a fundamental thesis that "the whole fabric of mediæval economics was based on the foundation of private property", and he holds that "the elaborate and logical system of regulation to insure justice in economic life would have no purpose or no use if the subject matter of that justice were abolished" (p. 40). The body of the essay is devoted to the elaboration of this thesis. "In its ultimate analysis", he affirms, "the whole subject may be reduced to a classification of the various duties which attached to the right of private property" (p. 40).

At the outset Mr. O'Brien justifies himself for dealing only with teaching and not at all with practice. He recognizes that the opinion is held by some that the teaching of the Canonists had but relatively slight influence on actual business procedure, but he concludes that the weight of authority is on the side of those who hold that theory greatly influenced practice in the Middle Ages even though there was, at times, conflict between the two (p. 19 *et seq.*). From one point of view, by thus limiting himself to theory he does well: a careful study of medieval practice greatly hampers generalization.

The habit of deciding the merits of the case by a show of hands—or pens—is characteristic of the author's method. So assiduously are modern authorities culled over that the reader inevitably gets the impression that he is examining a patchwork quilt pieced together from bits of cast-off garments contributed by all the friends and relatives. Such an impression is unfortunate, for much careful, patient work has gone into the book, and while quotation from secondary material is overdone the author is by no means unacquainted with source materials.

The body of the work is divided under two main headings: (1) property, and (2) duties regarding its exchange In the first it is argued that the scholastics were one with the early Fathers in their

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teaching regarding property, though the author is forced to admit that according to Canonist theory the right of private property was limited, at least to the extent that the holder was expected to make good use of it.

Considerably the longest section of the book is devoted to consideration of the theory of the just price and the prohibition of usury. In the treatment of the former there is nothing novel; in the latter there is an interesting distinction drawn between the medieval notion of interest, whereby the individual may properly receive some return for money loaned, and usury, which was prohibited by Canon law. The line is finely drawn, but comprehensible.

The book is written with a conscious purpose in view; the reader may agree with or react strongly against the whole conception of the work, but in either case he must recognize the essential fairness of the author. It is a useful summary of medieval economic theory. In the judgment of the reviewer its chief fault is that by neglecting to link up theory with practice it fails to come to grips with the realities of the situation.

AUSTIN P. EVANS.

COLUMBIA UNIVERSITY.

Banking Progress. By J. LAURENCE LAUGHLIN. New York, Charles Scribner's Sons, 1920.—x, 349 pp.

Professor Laughlin's new book constitutes a critical record of the progress made in money and banking matters in the United States during the last generation. Probably nobody is better qualified than Professor Laughlin to prepare such a record because not only has he made many vigorous contributions to the scientific discussion of the problems involved but he has also repeatedly thrown himself into the arena of practical politics, working with great energy and ability for the achievement of a sound monetary standard and of an efficient banking system. He thus speaks with the critical detachment of the scientist and at the same time with the practical insight of one who understands the peculiarities of the active politician.

In the field of money Professor Laughlin discusses the so-called "Gold Standard Act" of 1900. He demonstrates conclusively the compromissary nature of that law and its shortcomings as a real gold-standard measure. For its faults he blames the stupidity and ignorance of the politicians. The Senate leaders carefully eliminated from the original House bill the phrases that guaranteed the gold basis of the silver currency. It was not until the Federal Reserve

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Act of 1913 that the Secretary of the Treasury was given any real authority to protect the gold value of the silver currency.

Professor Laughlin devotes a few chapters to the struggle for an elastic currency. He shows how little by little there was a realization that the problem of elasticity was less a matter of note issue than it was of mobility and elasticity of credit in general. In this connection he analyzes the influence of the panic of 1907 and subjects to searching criticism the Aldrich-Vreeland bill, which was enacted as a temporary stop-gap. Here again Professor Laughlin grows caustic about the politicians—particularly the Senate leaders. His final characterization of this piece of legislation deserves quotation:

> Certainly, we had in this Aldrich-Vreeland Act — the product of a few days' struggle at the end of a session—an unexpected freedom of issues based on banking assets, as well as a Pandora's box-full of unknown possibilities for evil. It was an amazing lesson on the folly of politics in banking (p. 80).

More than half of Professor Laughlin's book deals with the origin, enactment and operation of the Federal Reserve Act. Preceding this discussion are two chapters which take up in detail the question of the guarantee of bank deposits. The space allotted to this topic appears to the reviewer at least to be entirely out of proportion to its real importance. The subject required some attention, but in a book which is a record of progress it would seem unnecessary to present an elaborate consideration of all the *pros* and *contras* of a minor issue.

All the material concerning the antecedents as well as the political history of the Reserve Act itself is of the greatest interest and importance. In connection with the political history Professor Laughlin pays a sincere tribute to the firm, beneficent leadership of President Wilson. Of the work of Dr. H. Parker Willis, the expert of the House Banking and Currency Committee, Professor Laughlin says: "The expert of this committee and afterward secretary of the Federal Reserve Board, H. Parker Willis, had probably more influence than any other man in shaping the measure in its formative legislative period." Professor Laughlin gives in full in a special chapter a bill which he had prepared and which, to use his own expression he had thrown "into the common pot". Moreover, he gives also an elaborate discussion of this bill. Bill and discussion together cover fifty-seven pages. It is doubtful whether this chapter serves any important purpose other than to supply a basis for a possible claim that Professor Laughlin himself exercised a profound influence on those who actually formulated the Federal Reserve Act.

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Professor Laughlin supplies little that is new in his discussion of the Reserve Act itself. He expounds fully its principles and purposes. His final chapter deals with the actual working of the act. In this connection he criticizes the way the resources of the reserve system were used for war-financing. He objects also to the "reversion" to the old system of lumping reserves against notes and deposits, particularly because of the great expansion of notes, which was purposely facilitated by amendments added to the original act. He is uneasy also about note expansion. After showing the actual increase in note issue he states: "It is likely that not all of this increase was needed as a medium of exchange." Professor Laughlin believes that credit expansion under the reserve system needs to be more narrowly controlled and that the issue of notes must be safeguarded from confusion with "fiscal operations of the government or with general banking operations carried on by the check-and-deposit system".

Much of the material which the book contains can be found in Professor Laughlin's writings elsewhere. Indeed, one of the faults of the book is that material already published is reproduced without adequate revision. For example, on page 98 in his discussion of the guarantee of bank deposits, is found the following sentence: "But, on the other hand, observe that the whole object intended by a guaranty of deposits could be gained by a safe and properly elastic note-issue—such as has been proposed in various currency reform bills." This has a too ancient flavor for a new book! Notwithstanding this fault, however, the book is well worth while and its place is assured.

E. E. AGGER.

COLUMBIA UNIVERSITY.

The Financial Organization of Society. By HAROLD G. MOULTON. Chicago, University of Chicago Press, 1921. — xxiii, 789 pp.

For several years Professor Moulton of Chicago University has been developing a survey course in financial organization, designed to give to students a more comprehensive view of the financial system as a whole than is presented in the usual courses in money and banking or in private finance. The lecture material for this course is now offered in book form and is available not merely as a text for similar courses at other universities but also as a survey for the general reader. Of its kind the volume is unique, for it covers a

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scope far wider than is covered by other textbooks in the financial field. All the important credit institutions are described, their functions discussed, and their interrelations pointed out—the savings bank and the bond house no less than the commercial bank, the organization of agricultural and consumptive credit no less than the organization of commercial and investment credit.

The author's primary object in covering such a large field in a single volume is to show how the different financial institutions are interrelated, to show how they all function together in a vast system which he calls the financial organization of society. Current textbooks on financial subjects have failed to show clearly this interrelation because they are confined, for the most part, to a description of an isolated institution, like the commercial bank, the bond house, or the savings bank. Says the author in his preface:

> I may frankly say that I did not fully appreciate this fact [the closeness of the relationship] until I undertook to describe the practical operations of each of the numerous types of financial institutions that exist today, and to point out the economic significance of each. The very attempt to explain the economic function of each financial institution inevitably carried one into a discussion of its relation to other financial institutions, and thus to a consideration of the relation of the financial system in general to the economic system in general.

Although the author insists on giving proper attention to other than commercial forms of banking, he nevertheless grants a position of dominating importance in the financial system to the commercial bank. Indeed, he goes much farther in this respect than do most other writers, for he rejects the traditional view that the functions of a commercial bank are primarily to supply working capital, and maintains that its functions in the supplying of fixed capital are hardly if at all less significant. To some extent, he points out, commercial banks supply fixed capital directly by the purchase of securities and of mortgages, but to a greater degree they supply the capital indirectly by means of call loans or short-term loans for investment purposes. The bond house and the savings bank, typical investment institutions, are dependent on the commercial bank for the credit on which they do business. Even the trust company relies on the old-time commercial bank as a depository for a part of its funds instead of maintaining independence by keeping adequate cash reserves. One cannot read this book, showing our entire economic organization dependent on the financial organization and in turn showing the financial system relying for its support on our com-

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mercial banking system, without being impressed with the vital responsibility that rests upon the state and national banking system and without being awed at the power that lies in the hands of the seven men who are now at the center of it all, the members of the Federal Reserve Board.

It goes without saying that the author, in his effort to include the entire financial organization within the scope of a single volume, has been obliged to omit many important details of financial theory and practice. But the gain of perspective is worth the sacrifice of detail. Indeed, so discriminating has been the author in his choice of material that one is surprised that so much can be told in such little space. The book is a distinct contribution to the cause of business education.

James C. Bonbright.

Columbia University.

Die Gerechtigkeit der Besteuerung. By Erik Lindahl. Lund, Sweden, Gleerupa Universitets-Bokhandeln, 1919.—xv, 226 pp.

The two main problems of taxation, the problems of the scope of taxation, of the amount that shall be withdrawn from private use for the support of collective activity, and the problem of the apportionment or distribution of the burden of taxation among individuals, Mr. Lindahl attempts to solve by an analysis based upon the theory of marginal utility. The main purpose of the book is to discredit the faculty theory and substitute for it the benefit theory. His thesis is somewhat as follows: the principle of benefit is the general, theoretic norm of taxation; and the principle of faculty is only a subsidiary, practical maxim. The basis of the faculty theory is the organic theory of the state, the idea that the state is a super-individual personality. This implies the absolute duty of taxation. This organic theory, however, is discredited. The state is an organization of individuals, declares Mr. Lindahl; hence, he maintains, the duty of taxation is a duty wholly relative to the benefit derived from collective activity.

The function of the state is to satisfy public wants, which are a part of the complexus of private wants. Since the public life is thus involved with the private life, public economic activity follows the same laws that govern private economy. The laws of private economy which are applicable to the problem of taxation are the law of diminishing utility, the law of diminishing productivity, and

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the law of the decreasing intensity of wants in the process of their satisfaction.

The problem of the scope of taxation Lindahl attempts to solve according to the principles of marginal utility, marginal productivity and supply and demand. The production of public goods should be carried on to the point where utility is just offset by costs, as is the tendency in private economy, or where the marginal satisfaction is the same from both public and private goods. Public goods, like private goods, may be divided into producers' goods and consumers' goods. The productive, or reproductive forces of the state, such as agricultural experiment, and the statistical investigations of industry and commerce, confer benefits that are measurable in terms of money, of market price. And these activities should be governed by the principle of marginal productivity; that is, they should be carried to the point where money expended for state regulation of private activity ceases to be more productive than if spent directly in private activity. Public consumers' goods such as public art, public cultural education, and public parks should be governed by the principle analogous to the marginal utility of private economy. They should approximate the point where benefits are offset by burdens, or where money spent for public consumers' goods ceases to bring a greater satisfaction than money spent for private consumers' goods. The amount of money that will be spent for these public goods will be determined by the individual's estimate of the satisfaction that he will derive from them. Only the connection between cost and utility is more remote and difficult to ascertain than in the case of private economic life. The wants of great masses of individuals are expressed only through representative government; and if representation is imperfect and political or party forces are brought to bear, the power of economic forces in the determination of taxation is proportionately modified. The problem of the amount of taxation can be determined according to purely economic principles provided that individuals estimate intelligently the benefits that they will derive from state activity, and express their conception of self-interest through the agency of a democratic, representative government.

Lindahl's solution of the other problem, the problem of the apportionment of taxation, seems less successful. It is based on a too narrow interpretation of the utility of income; for income possesses a social and political utility as well as an economic utility. Lindahl's main contribution is toward the solution of the problem of the scope of taxation.

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The book as a whole is full of subtle and ingenious reasoning; the doctrine of individual benefit, however, seems untenable, and not supported by the argument of the book. The conclusions are stated in the form of individual benefit but the arguments apply rather to group benefit. If we substitute group benefit for individual benefit, Lindahl's theory may constitute a significant contribution. And since the problem of taxation at present is of so much significance, any theoretic contribution that prepares the way for a practical improvement may result in materially enlarging the net psychic income of society.

HARVEY WHITEFIELD PECK.

UNIVERSITY OF VERMONT.

Guild Socialism. By G. D. H. COLE. New York, Frederick A. Stokes Company, 1920.—ix, 202 pp.

Guild Socialism, as Mr. Cole presents it, is at once an attitude and a program. The attitude is to be discovered more especially in his former book, *Social Theory;* its crux is the wish to escape from the hard conditions of modern industrialism into a better working world. The program is devised with the idea that this may be accomplished, that industrial enthusiasm may be re-created and the old guild craftsmanship may be revived, by shifting the responsibility for industry from the autocratic few to all the workers involved in the industrial process and by providing them with a system of functional representation that will enable them at once to work and to share in management.

This book is the program book which attempts to tell as clearly as may be at present how all this may be done. It will be seen at once that if the important thing in industry is the re-creation of enthusiasm for work and joy in the job—and the Guild Socialist conceives it so—the most significant features of any system which hopes to attain these results will be the points of actual contact between the workers and their work. Naturally, the factory, or place of work, will be the unit of Guild life. The wider national and world aspects involved in the politico-industrial system are in a real sense only secondary to the Guildsman; they are intended to free industry from centralized control. These problems are important and must be reckoned with; but the premises for their solution lie in factory life; as problems they are to be thought of as having to be cleared away so that the workers' lives may be free.

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Mr. Cole puts it this way: "The democratic unit of the factory must be made the basis of the larger democracy of the Guild." Here there is to be self-government and freedom. And so we come to the conception of the National Guild built up from local units based on the thing produced. This national organization would have below it not only the local guilds of the factories but also district guild committees to represent the various factories of the district including the various classes of workers in the guild. The whole principle of this structure would be the subordination of the functions of the larger organizations. They would be kept to the minimum possible for each industry, this in the interest of local autonomy for the real industrial units, the local Guilds.

Mr. Cole recognizes certain critical difficulties within the local Guild organization. The selection of leaders and the maintenance of discipline are two of these. In reality they react on each other; leaders will be selected by election from below, but definite qualifications of skill and technique, set by those already qualified, will be a condition of eligibility; and because of the fact of this election and the undoubted qualification of the leaders, the workers will respect them and cheerfully submit to their direction. Whether this will be a better method of choosing the managers of industry than the present trial and error method of eliminating the unfit remains to be seen; but certainly the emphasis is by this method shifted from the ability to make profits in a pecuniary régime to the more socially desirable ability to produce. Clever producers rather than clever manipulators might find the Guild Socialist environment encouraging. Workers might also find themselves provided with a heightened incentive. It is Mr. Cole's belief that this would be so.

There are other problems — for instance, that of payment for work. It is suggested here that ultimately the national income ought to be divided without regard to particular service; but that immediately it will be the practicable thing to have salary scales drawn up by each Guild and submitted to the Guilds Congress for such revision as will harmonize them with each other. Immediately, of course, the most powerful incentive of the present system is withdrawn, but Mr. Cole feels that the assurance of plenty for everyone and the knowledge of the worker that he is rendering free service will be a quite adequate substitute. And it is true that even now individuals among the workers are seldom individually rewarded for effort; they receive the level of wages of their group This change is not so great then as first appears. What is to be done about the

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dull and unpleasant work? The Guild Socialist answer to this seems to be that in the first place much of it can be eliminated; and that the residue may be rewarded by some such device as the six months' vacation. Mr. Cole says all this perhaps too easily. The prospect of machine and factory work becoming pleasant is not good. After freedom in the greatest possible measure is attained, will not the regularity and the monotony of industrial life remain, and will not human creatures still show symptoms of revolt?

Most of the products of each Guild—all except the finished, consumable ones—will be exchanged with other Guilds and an immense amount of inter-Guild traffic will arise. Because of this each Guild will need experts who understand the technique of the others. There will be special joint committees between local Guilds and the district committees as well as between the National Guilds—this again in conformity with the central idea of local autonomy.

The Industrial Guilds Congress would be the final representative body of the Guild system on its industrial side. "It would act as the representative of the Guilds as a whole in their common external relations, both with other parts of the body social, and with Guild and other organizations abroad."

On the consuming side Mr. Cole conceives the Guild system as making use of the present cooperative movement as the representative of the consumers of things furnished in variety adaptable to individual wants; and he provides a Collective Utilities Council to represent consumers of those services which are undifferentiated and provided in the mass. These would have local, regional and national bodies to confer at every stage with the producing Guilds. There would also be Civic and Cultural Councils, similarly organized on the functional plan.

These functional bodies in the aggregate make up the Commune; and the Commune is the final coordinating body. It will settle all differences of policy that cannot be settled by local conference, allocate capital, attend to national financing and carry on foreign relations. It is not emphasized; it is to have really very little to do, in Mr. Cole's view, because of the constant consultation between the local and district bodies of producers and consumers, which are the associations within the nation that have a valid modern life and among which frictions arise. It would exist to coordinate, not to dominate. So would disappear the old political state with its bureaucracy and its complicated centralizing machinery.

Mr. Cole's system is rounded and complete; yet it contrives to

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present an experimental appearance. There is no point on which Mr. Cole would not yield to reasonable revision. But on examination the fundamental assumptions of Guild Socialism are seen to be rooted in an industrial order very much like the one we have at present. The Guild Socialists believe an application of functional representation would make it over into a happily adjusted organ of community service and a medium for the perfect expression of the worker's creative impulses. It may be that we are justified in assuming an essentially static industrial future. It may be, too, that the hard conditions of industrial life in a machine-made age can be alleviated by an adherence to a principle. If so, Guild Socialism may perhaps be the Utopia men have sought so long.

REXFORD G. TUGWELL.

COLUMBIA UNIVERSITY.

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BOOK NOTES

There is virtual unanimity in the recognition of the plight of our war-wrecked world, but little agreement as to effective remedies. An ethical program for reconstruction—and, in the end, reconstruction must be our ethical program — is offered in Professor Gilbert Murray's little volume, *The Problem of Foreign Policy* (New York, Houghton, Mifflin Company, 1921; xxviii, 126 pp.). He believes that the saddest element in the present situation is the demoralization of governments. Even Great Britain permits policies to prevail which we have been used to look for in the government of Mexico. The cruel things done under compulsion in time of war are continued, under the passions of "revenge, hate, suspicion and raging covetousness", in the days of peace. Mob-inspired journalists egg on journalist-inspired mobs in the gospel of impatient, unreasonable national aggression. Professor Murray does not expect governments to act according to the Sermon on the Mount ("though they well might study it a good deal more than they do"), but he does expect them to return at least to such standards of "veracity, consistency, honesty, economy and intellectual competence" as characterized the Liberalism of the generation preceding the war. He is sanely optimistic, believing that sweet reasonableness will eventually prevail, through public discussion, over the timid braggadocio that drowns the voices of statesmen today. His hope is in the League of Nations, which he calls "the one great creative idea which this war has produced"; and he deplores America's abstention from the League as a mistake founded on a misconception. The League is not, he asserts, primarily a weapon of force pledging governments against their will to send soldiers to all parts of the earth, but a weapon of publicity and moral coercion to convince governments that they cannot longer profit by force and injustice. The final hope of the League is the inculcation of this lesson; for, after all, "human beings have a strong dislike of injustice when they do not directly gain by it".

A victory speaks for itself: a defeat has to be explained. It was to be expected that the collapse of the Central Powers would bring out a succession of books from ministers, generals, diplomats, and admirals, passing the responsibility round the circle like the injured

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innocents of Thomas Nast's famous cartoon "'Twas Him". Count Bernstorff joins the "I-told-you-so school", with Tirpitz, Ludendorff, Erzberger, and others, in his *My Three Years in America* (New York, Charles Scribner's Sons, 1920, 428 pp.). The chief object of the book is to show what an egregious mistake Germany made by entering on the unrestricted U-boat campaign just at the moment when the efforts of her ambassador in Washington to secure peace by negotiation seemed on the point of realization. This mistake would not have happened if the political leaders of Germany had known how to keep in hand the High Military Command as Bismarck did. All of Germany's efforts should have been bent to keeping America out of the war. But, instead of that, the jingoes suppressed truthful reports, like those of the author, and devoted themselves to the propaganda of "continually raising vain hopes" of a rapid success by sheer frightfulness. Bernstorff courageously defends the absolute "correctness" of his diplomatic conduct in America. He avers that he never to the slightest extent infringed the laws of the United States; that his propaganda here was honorable; that his success was imminent; and that his behavior was commended by the high officials here, from President Wilson down. He takes up in detail the twenty-four charges of German "conspiracies" which were laid before the Senate by Bruce Bielaski, and proves to his complete satisfaction that not one of the three or four which may have some semblance of truth was chargeable, or even known, to the German government. He worked in cordial cooperation with Wilson and Lansing until the breach, for which he was in no wise responsible, came, and has nothing but praise for President Wilson—until the débâcle of the Peace Conference. "Wilson was the giant Antæus who drew strength from his native soil; but once away from American ground, Hercules (Clemenceau) was able to crush him."

An interesting interpretation of the war and the peace, compounded of cynicism, fatalism, and pessimism, comes from the pen of Count Ottokar Czernin, the Austrian Minister of Foreign Affairs from 1916 to 1918, in his *In the World War* (New York, Harper and Brother, 1920; 387 pp.). It is not a consecutive history of the great years, but rather a "series of snap-shots", as the author calls them—extracts from his diary, pen-pictures of leading characters in the drama, reports, memoranda, letters, interviews, and reflections. The point of view is the orthodox apologetic of the Central Powers. All the bosh of Germany's encirclement, the lust of conquest in the

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Entente statesmen, the guilt of Russia in precipitating the contest, the pacific intentions of William Hohenzollern, the moderation of Austria in dealing with Serbia etc. is repeated *ad nauseam*. Count Czernin's thesis is that Austria was always ready, even at great sacrifice to herself, to make peace; but the German High Command insisted on rushing to destruction. The Count had gone so far as to half-persuade the German Crown Prince in 1917 to approve the surrender of Alsace-Lorraine in return for Poland and Galicia, but Ludendorff restored the Prince's morale with the savage rebuke to Czernin: "What have you been doing with our Crown Prince!" In spite of her disapproval of the policies of Tirpitz and Ludendorff, Austria could not break with Germany. For the Treaty of London had already doomed her to dismemberment. Her hour had struck. She might as well go down fighting by Germany's side as to invite the invasion of Bohemia by her embarrassingly powerful ally. The book is not very convincing as a political interpretation, but some of the "snap-shots", like the picture of Franz Ferdinand and the description of the conference at Brest-Litovsk (to which Czernin was a delegate) have "come out" very well.

A vital factor in determining the matter of reparations incident to the outcome of the Great War is discussed at length in *The Upper Silesian Question and Germany's Coal Problem* (London, George Allen and Unwin Ltd., 1920; 285 pp.). The author, who writes under the pseudonym of "Sidney Osborne", is an American and the book is printed in Holland. Though avowedly sympathetic with the views held by the opponents of Germany, he believes nevertheless that both the ethics and the actualities of the situation require that the territory of Upper Silesia should remain German. This thesis he sustains with great skill on the basis of facts that are readily verifiable.

There is a surprising lot of concise statement in *The League of Nations and the New International Law* by John Eugene Harley (New York, Oxford University Press, 1921, vii, 127 pp.), less than half of which is text, the rest consisting of appendices giving the original and revised drafts of the Covenant, other proposals for a League of Nations, and tables showing international administrative organizations, the ratifications of the Hague conventions and the cases decided at the Permanent Court. In eleven brief chapters the author analyzes the various concepts of international law, its methods of development, attempts at codification, the legal status of war, the machinery for settling international disputes, the international labor

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organization and the juridical changes likely to attend the institution of the League. The thesis is the sovereignty of law under the new régime. The nations "have felt the need of a system of law so keenly that they have united to give effect to the rule of law". A new international person has been created with enough sovereignty "to make reasonable of expectation . . . the maintenance of international peace and security and the promotion of international co-operation, through the development of international law". There is one statement that should be qualified. Among the attributes of sovereignty enumerated as surrendered under the League is the right to remain neutral, and President Wilson is quoted as saying that "under the League there would be no neutrals and that consequently the question of neutral rights would not arise". But the Covenant has not abolished the right to make war, except in specified cases; hence it follows that there will still continue to be neutrals, for neutrality is the correlative of war.

In the midst of the deluge of literature on current problems flowing from the pens of politicians, philosophers, economists, historians, and even poets and novelists, since 1914, it is a source of keen satisfaction to read Sydney Herbert's *Nationality and its Problems* (New York, E. P. Dutton and Company, 1920, ix, 173 pp.). This scholarly monograph discusses, among other things, the nature of nationality, the forces which contribute to the making of a nation, the growth of nationality, the relation of nationality to politics and to the "Great Society", and the future of nationality. Nationality, the author concludes, "is a form of consciousness of kind, related to a definite home-country which binds men together irrespective of political allegiance and opinion, religious beliefs and economic interests" (p. 29). In like manner, a nation is a "social group bound together by a consciousness of kind which springs from the tradition evoked by the group's historic past, and is directly related to a definite home-country" (p. 37). The nation-making forces are geography, government, language, literature and religion, although the latter is steadily growing less. Some of these forces, however, may act as powerful barriers to the growth of national solidarity. In the "Great Society", the product of the industrial system of the nineteenth century, he sees a menace to the persistence of nationality. Political nationalism he believes to be bankrupt and a menace to the world; this should give way before a social and spiritual nationalism which should be divorced from the conception of the political state. But this is not enough. There must be a multi-national state,

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a world state which will guarantee liberty and equality to its constituent groups and preserve peace. If by some such change mankind has not the courage and will to solve the pressing economic and national problems, the world, he believes, "is destined to travel once more the weary round of resentment, oppression, revenge and universal conflict".

A work profoundly learned in comparative philology is that by Professor Leo Wiener, entitled *Africa and the Discovery of America* (Philadelphia, Innes and Sons, 1920; vol. I, xix, 290 pp.). Along with a companion volume not yet published, it is intended to show that current American archæology, with especial reference to tobacco, the bread roots and the Indian medicine man, is to a great extent "built on sand". In reality, not Indians but negroes primarily were responsible for the introduction of these factors into "American civilization". To demonstrate his belief on this point, the scholarly author endeavors to prove that early Spanish assertions in favor of the Indians as originators of them are highly unreliable, when not deliberately mendacious. The demonstration is constructed on the basis of philological and ethnological researches that display a wealth of skill, industry and erudition, even if they leave the patient reader unconvinced. On the whole the impression conveyed by the work is, that it serves to exemplify the prevailing tendency in certain quarters to exalt racial virtues in the interest of condemning racial prejudice.

To describe adequately the Hispanic type of civilization in the New World, even within a relatively limited area, is impossible for one who has not enjoyed a long antecedent familiarity with Spanish America. Dr. Dana G. Munro's account of *The Five Republics of Central America* (New York, Oxford University Press, 1918; xvi, 333 pp.) illustrates the point. Neither the "several months", according to the editor's preface, nor the "two years", according to the author's preface, of study "on the ground" or "in the Isthmus" could suffice to provide a knowledge of the background of Spanish America as a whole requisite to make a work of real discernment and appreciation. This is notably true of what is stated in connection with history and social conditions. In some respects, nevertheless, the book affords a better presentation of the subject than did its English predecessor of greater length in the same field.

To his series of scholarly studies which have done so much to make a knowledge of the colonial institutions of Spain in the New World available to English readers, Professor Bernard Moses has

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added *Spain's Declining Power in South America. 1730-1806* (Berkeley, University of California Press, 1919; xx, 440 pp.). Like his larger work published five years earlier, it is not so much an orderly narrative of events as a collection of essays portraying episodes or describing conditions in one province or another, with some regard also to the relations between Spain and Portugal. Though the material from which they are derived is well known to the specialist, the use to which it has been put in the interests of a larger audience deserves the fullest recognition. By degrees the ignorance that envelops the record of Spanish dominion in America subsequent to the era of the *conquistadores* is being dispelled. This latest work from the veteran pen of the man who is justly to be regarded as the pioneer craftsman in the study of Spanish colonial history in the United States is a highly serviceable contribution to that end.

The collection of monographs brought out under the auspices of the "Comité France-Amérique" has been enlarged by a volume entitled *Histoire de la Colombie et du Vénézuéla des origines jusqu'à nos jours* (Paris, Librairie Félix Alcan, 1921; 220 pp.). Its author, Professor Jules Humbert, is well known for his investigations into the early history of Venezuela. The present work, based upon a careful use of the most accessible authorities, affords a very readable account of the political and social development of the two northern republics of South America. Even if it does bulk altogether too large on the period before 1830, it surpasses in value any book in English on the general subject. Professor Humbert, however, seems wholly unaware of excellent treatises written by Americans on special phases of his theme, which might have helped to modify some of his opinions and conclusions.

Among British writers who have given especial attention in recent years to the Hispanic countries of America is C. Reginald Enock. Author of a number of books on individual countries, he has composed also general treatises of a historical and descriptive nature. The second of these is called *Spanish America: its Romance, Reality and Future* (New York, Charles Scribner's Sons, 1920; two volumes: 294, 307 pp.). While more elaborate than its predecessor brought out in 1913, it does not differ from it essentially in scope and manner of treatment. Numerous passages also are taken from volumes in the "South American Series", to which Mr. Enock has been a contributor. The work reveals no especial knowledge gained from scholarly investigation; nor is it designed to do so. What it supplies is an abundance of information gained through travel and

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personal experience, as well as acquired by industrious compilation. This is conveyed in a pleasant and readable, if at times a bit cocksure fashion. No one, surely, who knows both Spain and Spanish America at all intimately would venture to assert that "there is little variation between the Spanish of Castile and that of Spanish America" (I, p. 25). Few, moreover, would understand why British Honduras, the Guianas and Brazil belong in an account of Spanish America, while Cuba and the Dominican Republic do not. By far the major portion of the two volumes is given over to what the author terms a "science of humanity or science of corporate life", by which he appears to mean a study of Latin Americans as affected by their environment. In the concluding chapters he lays emphasis upon those phases of the subject which possess an immediate concern for the "English-speaking peoples", with whom he does not make Americans altogether identical.

A new edition of a work that appeared in 1900 under a different caption bears the title of *The United States and Latin America* (New York, Doubleday, Page & Company, 1920; 346 pp.). Its author, Professor John Holladay Latané, has omitted some of the material contained in the earlier volume, revised a few chapters and added new ones concerned with Pan-Americanism and the spread of American influence in the region of the Caribbean. Despite the implications of the title, the book does not furnish a survey of even the diplomatic relations alone of the United States with the twenty other republics of the New World. Most of these countries virtually are left out of consideration altogether. Nor is the account of those actually treated brought as fully up to date as might be expected. Some of the diplomatic incidents connected with the fairly recent history of Latin America, like the War of the Pacific, in which the United States had an important share, are passed over. So, of course, are the many phases of the relationship of this country with its southern neighbors which have not been of a wholly diplomatic nature. The absence of references to works in Spanish and Portuguese makes it equally evident that the Latin-American viewpoint has received attention as scant. What the book really does is to provide an interpretative description of a number of episodes in the political relationship of the United States with the Hispanic nations, which may serve to exemplify the general character of our diplomatic dealings with them.

In a second edition of his work on the historical evolution of Pan-Americanism, which appears under the caption of *Pan-Amerika:*

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Entwicklung, Umfang und Bedeutung der zwischenstaatlichen Organisation in Amerika (Zürich, Art. Institut Orell Füssli, 1918; xix, 293 pp.), the late Dr. Alfred H. Fried, the eminent Austrian pacifist, added what in his judgment constituted the most significant features in the process as it developed between 1910 and 1916. Viewing the subject as he did through the medium of books and articles, rather than through any personal acquaintance with American and Hispanic-American relationships gained by actual investigation in the countries concerned, he attached an importance to the subject which it can hardly be said to possess on this side of the water. Those who have studied Pan-Americanism in its own proper atmosphere cannot subscribe to much of the interpretation that the author has placed upon it. Cooperation between the United States and its sister republics has not reached as yet a degree of effectiveness sufficient to warrant its being regarded as a "zwischenstaatliche Organisation" in anything like an exact sense of the term. Dr. Fried's work, nevertheless, remains the best general survey and exposition of the subject which has ever been written.

Local government in the United States is a thing of immense diversity. A book which would describe it accurately would be all trees upon a plain and no forest. Even so, in such a matter it is the kind of tree that is of interest and importance and not the kind of forest. In *Local Government in the United States* (New York, D. Appleton and Company, 1921; xv, 482 pp.) Professor Herman G. James essays to paint the forest for us. It is a difficult task. Perhaps he has done it as well as it could be done upon canvas of moderate size. But his claim that he has presented to the general reader "the entire field of local government" is very far from warranted. It is true that most of the familiar varieties of local government are brought into the picture, but they are put there with a heavy brush. It is improbable that any book on the subject of local government will find many general readers. The reader who wants information on such a subject will usually be the student in search of specific and detailed information. He will not find much of it here. Nor will the college teacher find here, as the author claims he will, "a comprehensive text for a course" on the subject. He will not find this partly because the book is not comprehensive (except in the sense already indicated) and partly because he will not be in search of a text for a course that he will not want to offer. There is really very little logical unity in the whole subject of local government. The problems of urban and of rural government have

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little or nothing in common except where the county embraces one or more sizeable urban communities. In such case the relation between county and city governments is of importance; but this subject is not adequately dealt with here, nor for that matter anywhere else. The book is frankly built largely upon secondary sources—books, monographs, and pamphlets. It is of value in bringing the fruits of many of these together in a single volume and in bringing down to date such a volume, for example, as Fairlie's *Local Government in Counties, Towns and Villages.*

Given the divergence of opinion prevailing in India today between the school of thought which believes in administrative reform "from above" and that which advocates its promotion "from below", the learned treatise by Professor Radhakumud Mookerji on *Local Government in Ancient India* (Oxford, Clarendon Press, 1920; xxv, 338 pp.) possesses a genuine interest of timeliness. Out of an elaborate analysis of the sources of knowledge, the author provides a survey of early institutions which is very valuable to students of the subject. Regardless of the difficulties that beset Indian chronology in the period under review, he has succeeded in demonstrating how the essential characteristics of Indian life continued through the various shifts in the political control of the country at large. The work, accordingly, serves to uphold the contentions of those who maintain that, since the organization of the local community is the fundamental structure of the state, all changes that might seem desirable in the governmental system ought to begin on this basis.

An example of international cooperation in the writing of a textbook is furnished by the joint treatise of Sir William Marris and Professor James Wilford Garner on *Civil Government for Indian Students* (Calcutta, S. C. Sanial and Company, 1921; xiii, 368 pp.). Its aim apparently is to have the school children of India "correctly instructed in the fundamentals of political science", rather than in the essentials of civil government in that country itself. Less than one-fourth of the text in fact deals with the latter subject. An appendix, furthermore, of nearly a hundred pages is made up of three official documents, the language of which would hardly be intelligible to the kind of pupils for which the rest of the book is designed.

Students of current economic problems will be interested in three recent booklets by Professor V. G. Kale, of Ferguson College, Poona, India. The titles are respectively: *Gokhale and Economic*

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Reforms (Poona City, Aryabhushan Press, 1916; 241 pp.), *India's War Finance and Post-War Problems* (Poona City, Aryabhushan Press, 1919; 153, iii pp.), and *Currency Reform in India* (Poona City, Aryabhushan Press, 1919; 107, iii pp.). Professor Kale is favorably known for his books on Indian administration as well as on Indian industrial economic problems, and these new works will maintain his reputation as a clear and moderate writer.

Now that the German University of Strasbourg has been abandoned, Professor Georg F. Knapp, former incumbent of the chair of Economics at that University, has retired to Darmstadt and has found time to prepare a third edition of his celebrated work on money entitled *Staatliche Theorie des Geldes* (Munich, Duncker and Humblot, 1921; xvi, 461 pp.). The recent happenings during the war have not caused Professor Knapp to change his opinions in any respect, but he has now added four chapters, two of them dealing with Austrian experiences up to 1914; the other two more especially referable to the war. Thus his chapter on the connection between the value of money and prices devotes much attention to the problems of index numbers and the rise of prices, both of which, however, are in Professor Knapp's opinion entirely distinct from the problem to which he was addressing himself. The final chapter is devoted to the literature on the "political theory of money". It is interesting to see what a large number of books and articles this now classic work has called forth. Incidentally, it may be remarked that the admirable series of monographs published by the Strasbourg seminar in Economics under the editorship of Knapp, and in recent years largely devoted to monetary problems, came to an end with the thirty-fifth number in 1918.

Professor E. L. Bogart now follows his work on the direct and indirect costs of the war, published a year or two ago, under the auspices of the Carnegie Endowment for International Peace, with a new book, which appears in the Appleton Series of *Problems of the War and of Reconstruction,* edited by Mr. F. G. Wickware. The volume is entitled *War Costs and their Financing* (D. Appleton and Company, 1921; xxiv, 510 pp.) and has an introduction by R. C. Leffingwell, sometime Assistant Secretary of the Treasury. Most of the matter and the tables in chapters IV, V, VI, and VIII of the present volume are reproduced with acknowledgments from the preceding work, but the greater part of the volume is the result of independent study and brings the material down to date. Professor Bogart is always sensible and moderate in his judgments. The book

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will no doubt be accorded the favorable reception which it deserves, for although there is nothing very startling in its conclusions, it is accurate and well informed.

A Stake in the Land by Peter A. Speek (New York, Harper and Brothers, 1921; xxx, 266 pp.) is a discussion of the place of the immigrant in the rural life of the United States. The subject divides itself into two parts: the first has to do with the newcomer's relation to the land itself and the second with his relations to rural institutions. It exposes a shocking carelessness of the direction of rural development and points out the hopelessness of any but a limited success for the immigrant in agricultural life. It does suggest, however, that by some revision of our land policies, by some effort in helping the establishment of new homes, and by attention to the needs of rural schools, churches and libraries, the settlers of the new frontier may become national assets, valuable additions to American life. There appears again and again the record of hardship overcome and of something like success won; but always at unnecessary cost. And failure oftener than success enters the record. We resent the piling-up of immigrant populations in our cities in solid, foreign, un-Americanized masses. This book makes it clear why immigrants, predominantly agricultural in the Old World, fail to find a place on the land over here. There are few facts in it that Americans can be proud of, but many of which we must take account and somehow avoid in the annals of the future.

For some years teachers and students of modern banking have felt the pressing need of a book which without necessarily concerning itself with the principles of the subject would, nevertheless, completely and accurately describe and interpret all the different kinds of work done in a typical American banking institution. That need is now admirably filled by L. H. Langston's *Practical Bank Operation* (New York, the Ronald Press Company, 1921; two volumes: xxv, 370; xi, 713 pp.). The work is based on the actual practice of the largest bank in the United States. Starting with the receiving operations, each department is described and its work interpreted, so that when one concludes with the final chapter on "Organization and Administration" one feels that one has been conducted through the whole establishment from cellar to roof and that not a single activity has been neglected. The National City Bank is to be congratulated on the vision which led to the preparation of this book.

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